2013

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September 2013

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ENACTED THROUGH THE 2013 REGULAR SESSION
AND 1ST AND 2ND EXTRAORDINARY SESSIONS

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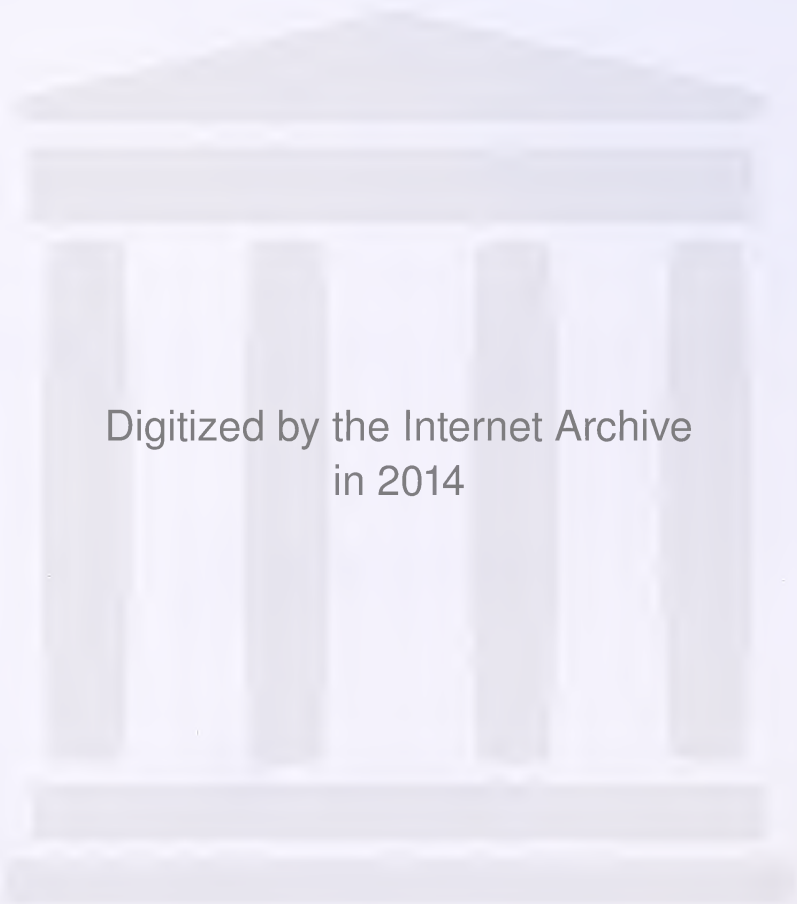
User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



PUBLISHER'S FOREWORD

Statutes

The 2013 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2013 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 27. TAXATION AND FINANCE

CHAPTER 31. Ad Valorem Taxes—General Exemptions

IN GENERAL

MISSISSIPPI CODE 1972

ANNOTATED

VOLUME EIGHT A

TITLE 27

TAXATION AND FINANCE

CHAPTER 25

Severance Taxes

ARTICLE 5.

OIL SEVERED OR PRODUCED IN STATE.

§ 27-25-501. Definitions.

Whenever used in this article, the following words and terms shall have the definition and meaning ascribed to them in this section, unless the intention to give a more limited meaning is disclosed by the context:

(a) "Tax commission" or "department" means the Department of Revenue of the State of Mississippi.

(b) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(c) "Annual" means the calendar year or the taxpayer's fiscal year when permission is obtained from the commissioner to use a fiscal year as a tax period in lieu of a calendar year.

(d) "Value" means the sale price, or market value, at the mouth of the well. If the oil is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the commissioner shall determine the value of the oil subject to tax, considering the sale price for cash of oil of like quality. With respect to salvaged crude oil as hereinafter defined, the term "value" shall mean the sale price or market value of such salvaged crude oil at the time of its sale after such salvaged crude oil has been processed or treated so as to render it marketable.

(e) "Taxpayer" means any person liable for the tax imposed by this article. With respect to the tax imposed upon salvaged crude oil as hereafter defined, the term "taxpayer" shall mean the person having title to the salvaged crude oil at the time it is being processed or treated so as to render it marketable.

(f) "Oil" means petroleum, other crude oil, natural gasoline, distillate, condensate, casinghead gasoline, asphalt or other mineral oil which is mined, or produced, or withdrawn from below the surface of the soil or water, in this state. Any type of salvaged crude oil which, after any treatment, becomes marketable shall be defined as crude oil which has been severed from the soil or water.

(g) "Severed" means the extraction or withdrawing from below the surface of the soil or water of any oil, whether such extraction or withdrawal shall be by natural flow, mechanically enforced flow, pumping or any other means employed to get the oil from below the surface of the soil or water, and shall include the withdrawing by any means whatsoever of oil upon which the tax has not been paid, from any surface reservoir, natural or artificial, or from a water surface. Provided, however, that in the case of salvaged crude oil, "severed" means the process of treating such oil so that it will become marketable and the time of severance shall occur upon completion of the treatment.

(h) "Person" means any natural person, firm, copartnership, joint venture, association, corporation, estate, trust or any other group, or combination acting as a unit, and the plural as well as the singular number.

(i) "Producer" means any person owning, controlling, managing or leasing any oil property, or oil well, and any person who produces in any manner any oil by taking it from the earth or water in this state, and shall include any person owning any royalty or other interest in any oil or its value, whether produced by him, or by some other person on his behalf, either by lease contract or otherwise.

(j) "Engaging in business" means any act or acts engaged in (personal or corporate) by producers, or parties at interest, the result of which, oil is severed from the soil or water, for storage, transport or manufacture, or by

which there is an exchange of money, or goods, or thing of value, for oil which has been or is in process of being severed, from the soil or water.

(k) "Barrel" for oil measurement, means a barrel of forty-two (42) United States gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

(*l*) "Production" means the total gross amount of oil produced, including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this article shall be measured or determined by tank tables compiled to show one hundred percent (100%) of the full capacity of tanks without deduction for overage or losses in handling. Allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to sixty (60) degrees Fahrenheit will be allowed. If the amount of oil produced has been measured or determined by tank tables compiled to show less than one hundred percent (100%) of the full capacity of tanks, then such amount shall be raised to a basis by one hundred percent (100%) for the purpose of the tax imposed by this article.

(m) "Gathering system" means the pipelines, pumps and other property used in gathering oil from the property on which it is produced, the tanks used for storage at a central place, loading racks and equipment for loading oil into tank cars or other transporting media, and all other equipment and appurtenances necessary to a gathering system for transferring oil into trunk pipelines.

(n) "Discovery well" means any well producing oil from a single pool in which a well has not been previously produced in paying quantities after testing.

(o) "Development wells" means all oil producing wells other than discovery wells and replacement wells.

(p) "Replacement well" means a well drilled on a drilling and/or production unit to replace another well which is drilled in the same unit and completed in the same pool.

(q) "Three-dimensional seismic" means data which is regularly organized in three (3) orthogonal directions and thus suitable for interpretation with a three-dimensional software package on an interactive work station.

(r) "Two-year inactive well" means any oil or gas well certified by the State Oil and Gas Board as having not produced oil or gas in more than a total of thirty (30) days during a twelve-consecutive-month period in the two (2) years before the date of certification.

(s) "Horizontally drilled well" means a well in which the deviation of the borehole is at least eighty degrees (80°) from vertical so that the borehole penetrates a productive formation in a manner parallel to the formation and in which there is at least one thousand (1,000) feet of lateral penetration through productive reservoirs.

(t) "Horizontally drilled recompletion well" means an existing well in which the deviation of the borehole is at least eighty degrees (80°) from vertical so that the borehole penetrates a productive formation in a manner parallel to the formation and in which there is at least one thousand (1,000) feet of lateral penetration through productive reservoirs.

SOURCES: Codes, 1942, § 9417-01; Laws, 1944, ch. 134, § 1; Laws, 1983, ch. 503, § 1; Laws, 1994, ch. 545, § 1; Laws, 1995, ch. 531, § 1; Laws, 2009, ch. 492, § 63; Laws, 2013, ch. 533, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (s) and (t).

§ 27-25-503. Privilege tax levied; exemptions [Paragraph (1)(c) repealed effective July 1, 2018].

(1)(a) Except as otherwise provided in this section, there is levied, to be collected as provided in this article, annual privilege taxes upon every person engaging or continuing within this state in the business of producing, or severing oil from the soil or water for sale, transport, storage, profit or for commercial use. The amount of the tax shall be measured by the value of the oil produced, and shall be levied and assessed at the rate of six percent (6%) of the value of the oil at the point of production.

(b) The tax shall be levied and assessed at the rate of three percent (3%) of the value of the oil at the point of production on oil produced by an enhanced oil recovery method in which carbon dioxide is used; provided, that such carbon dioxide is transported by pipeline to the oil well site and on oil produced by any other enhanced oil recovery method approved and permitted by the State Oil and Gas Board on or after April 1, 1994, pursuant to Section 53-3-101 et seq.

(c)(i) The tax shall be levied and assessed at the rate of one and three-tenths percent (1.3%) of the value of the oil at the point of production on oil produced from a horizontally drilled well or from any horizontally drilled recompletion well from which production commences from and after July 1, 2013, for a period of thirty (30) months beginning on the date of first sale of production or until payout of the well cost is achieved, whichever first occurs. Thereafter, the tax shall be levied and assessed as provided for in paragraph (a) of this subsection.

(ii) Payout of a horizontally drilled well or horizontally drilled recompletion well shall be deemed to have occurred the first day of the next month after gross revenues, less royalties and severance taxes, equal to the cost to drill and complete the well.

(iii) Each operator must apply by letter to the State Oil and Gas Board for the reduced rate provided in this paragraph (c), and shall provide the board with the status of payout on a semiannual basis of any horizontally drilled well or horizontally drilled recompletion well by signed affidavit executed by a company representative.

(iv) This paragraph (c) shall be repealed from and after July 1, 2018; however, any horizontally drilled well or horizontally drilled recompletion well from which production commences before July 1, 2018, shall be taxed as provided for in this paragraph (c) notwithstanding that the repeal of this paragraph (c) has become effective.

(2) The tax is levied upon the entire production in this state regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery

may be made to points outside the state, and the tax shall accrue at the time the oil is severed from the soil, or water, and in its natural, unrefined or unmanufactured state.

(3)(a) Oil produced from a discovery well for which drilling or re-entry commenced on or after April 1, 1994, but before July 1, 1999, shall be exempt from the taxes levied under this section for a period of five (5) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty-five Dollars ($25.00) per barrel. The exemption for oil produced from a discovery well as described in this paragraph (a) shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be exempt for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Oil produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after January 1, 1994, but before July 1, 1999, shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of three (3) years. The reduced rate of assessment of oil produced from development wells or replacement wells as described in this paragraph (a) shall be repealed from and after January 1, 2003, provided that any such production for which drilling commenced before January 1, 2003, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Oil produced from a discovery well for which drilling or re-entry commenced on or after July 1, 1999, shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of five (5) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty Dollars ($20.00) per barrel. The reduced rate of assessment of oil produced from a discovery well as described in this paragraph (b) shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Oil produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after July 1, 1999, shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of three (3) years. The reduced rate of assessment of oil produced from development wells or replacement wells as described in this paragraph (b) shall be repealed from and after January 1, 2003, provided that any such production for which drilling commenced before July 1, 2003, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(4)(a) Oil produced from a development well for which drilling commenced on or after April 1, 1994, but before July 1, 1999, and for which three-

dimensional seismic was utilized in connection with the drilling of such well shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of five (5) years, provided that the average monthly sales price of such oil does not exceed Twenty-five Dollars ($25.00) per barrel. The reduced rate of assessment of oil produced from a development well as described in this paragraph (a) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(b) Oil produced from a development well for which drilling commenced on or after July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of five (5) years, provided that the average monthly sales price of such oil does not exceed Twenty Dollars ($20.00) per barrel. The reduced rate of assessment of oil produced from a development well as described in this paragraph (b) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(5)(a) Oil produced before July 1, 1999, from a two-year inactive well as defined in Section 27-25-501 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty-five Dollars ($25.00) per barrel. The exemption for oil produced from an inactive well shall be repealed from and after July 1, 2003, provided that any such production which began before July 1, 2003, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Oil produced on or after July 1, 1999, from a two-year inactive well as defined in Section 27-25-501 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty Dollars ($20.00) per barrel. The exemption for oil produced from an inactive well shall be repealed from and after July 1, 2003, provided that any such production which began before July 1, 2003, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(6) [Repealed]

(7) The State Oil and Gas Board shall have the exclusive authority to determine the qualification of wells defined in paragraphs (n) through (t) of Section 27-25-501.

SOURCES: Codes, 1942, § 9417-02; Laws, 1944, ch. 134, § 2; Laws, 1984, ch. 451, § 1; Laws, 1987, ch. 428, § 1; Laws, 1988, ch. 485, § 1; Laws, 1989, ch. 520, § 1; Laws, 1994, ch. 545, § 2; Laws, 1995, ch. 531, § 2; Laws, 1999, ch. 523, § 1; Laws, 2013, ch. 533, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment, in (1), added the (a) and (b) designators, substituted "in this section" and "in this article" for "herein" and deleted "as defined herein" after "or severing oil" in the first sentence, substituted "of the oil" for "thereof" in the last sentence, and added (c)(i)-(iv); substituted "paragraphs (n) through (t)" for "paragraphs (n) through (r)" near the end of (7); and made stylistic changes throughout the section.

Cross References — Tax collections made pursuant to paragraph (1)(c) of this section to be apportioned to the county in which the oil was produced, see § 27-25-505.

§ 27-25-505. Distribution of tax.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

(1) All taxes levied in this article and collected by the Department of Revenue shall be paid into the State Treasury on the same day collected.

(2) Except as otherwise provided in this section, the commissioner shall apportion all the tax collections made pursuant to this article to the state and to the county in which the oil was produced, in accordance with the following schedule and so certify such apportionment to the State Treasurer at the end of each month:

On the first Six Hundred Thousand Dollars ($600,000.00) or any part thereof, sixty-six and two-thirds percent (66-⅔%) to the state and thirty-three and one-third percent (33-⅓%) to the county.

On the next Six Hundred Thousand Dollars ($600,000.00) or any part thereof, ninety percent (90%) to the state and ten percent (10%) to the county through June 30, 1989; eighty-five percent (85%) to the state and fifteen percent (15%) to the county from July 1, 1989, through June 30, 1990; and eighty percent (80%) to the state and twenty percent (20%) to the county for each fiscal year thereafter.

Above and exceeding One Million Two Hundred Thousand Dollars ($1,200,000.00), ninety-five percent (95%) to the state and five percent (5%) to the county through June 30, 1989; ninety percent (90%) to the state and ten percent (10%) to the county from July 1, 1989, through June 30, 1990; and eighty-five percent (85%) to the state and fifteen percent (15%) to the county for each fiscal year thereafter.

(3) The state's share of all oil severance taxes collected pursuant to this article shall be deposited as provided for in Section 27-25-506.

(4) The commissioner shall apportion all the tax collections made pursuant to Section 27-25-503(1)(c) to the county in which the oil was produced.

(5) The State Treasurer shall remit the county's share of taxes collected pursuant to this article on or before the twentieth day of the month next succeeding the month in which the collections were made, for division among the municipalities and taxing districts of the county. He shall accompany his

remittance with a report to the county receiving the funds prepared by the commissioner showing from whom the tax was collected. Upon receipt of the funds, the board of supervisors of the county shall allocate the funds to the municipalities and to the various maintenance and bond and interest funds of the county, school districts, supervisors districts and road districts, as provided in this subsection.

When there are any oil producing properties within the corporate limits of any municipality, then the municipality shall participate in the division of the tax returned to the county in which the municipality is located, in the proportion which the tax on production of oil from any properties located within the municipal corporate limits bears to the tax on the total production of oil in the county. In no event, however, shall the amount allocated to municipalities exceed one-third (⅓) of the tax produced in the municipality and returned to the county. Any amount received by any municipality as a result of the allocation provided for in this subsection shall be used only for such purposes as are authorized by law.

The balance remaining of any amount of tax returned to the county after the allocation to municipalities shall be divided among the various maintenance and bond interest funds of the county, school districts, supervisors districts and road districts, in the discretion of the board of supervisors, and the board shall make the division in consideration of the needs of the various taxing districts. The funds so allocated shall be used only for purposes as are authorized by law.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

(1) All taxes levied in this article and collected by the Department of Revenue shall be paid into the State Treasury on the same day collected.

(2) Except as otherwise provided in this section, the commissioner shall apportion all the tax collections made pursuant to this article to the state and to the county in which the oil was produced, in accordance with the following schedule and so certify such apportionment to the State Treasurer at the end of each month:

On the first Six Hundred Thousand Dollars ($600,000.00) or any part thereof, sixty-six and two-thirds percent (66-⅔%) to the state and thirty-three and one-third percent (33-⅓%) to the county.

On the next Six Hundred Thousand Dollars ($600,000.00) or any part thereof, ninety percent (90%) to the state and ten percent (10%) to the county through June 30, 1989; eighty-five percent (85%) to the state and fifteen percent (15%) to the county from July 1, 1989, through June 30, 1990; and eighty percent (80%) to the state and twenty percent (20%) to the county for each fiscal year thereafter.

Above and exceeding One Million Two Hundred Thousand Dollars ($1,200,000.00), ninety-five percent (95%) to the state and five percent (5%) to the county through June 30, 1989; ninety percent (90%) to the state and ten

percent (10%) to the county from July 1, 1989, through June 30, 1990; and eighty-five percent (85%) to the state and fifteen percent (15%) to the county for each fiscal year thereafter.

(3) The state's share of all oil severance taxes collected pursuant to this article shall be deposited as provided for in Section 27-25-506.

(4) The commissioner shall apportion all the tax collections made pursuant to the tax levied in Section 27-25-503(1)(c) to the county in which the oil was produced.

(5) The State Treasurer shall remit the county's share of the taxes collected pursuant to this article on or before the twentieth day of the month next succeeding the month in which the collections were made, for division among the municipalities and taxing districts of the county. He shall accompany his remittance with a report to the county receiving the funds prepared by the commissioner showing from whom the tax was collected. Upon receipt of the funds, the board of supervisors of the county shall allocate the funds to the municipalities and to the various maintenance and bond and interest funds of the county and school districts, as provided in this subsection.

When there are any oil producing properties within the corporate limits of any municipality, then the municipality shall participate in the division of the tax returned to the county in which the municipality is located, in the proportion which the tax on production of oil from any properties located within the municipal corporate limits bears to the tax on the total production of oil in the county. In no event, however, shall the amount allocated to municipalities exceed one-third (⅓) of the tax produced in the municipality and returned to the county. Any amount received by any municipality as a result of the allocation provided in this subsection shall be used only for such purposes as are authorized by law.

The balance remaining of any amount of tax returned to the county after the allocation to municipalities shall be divided among the various maintenance and bond interest funds of the county and school districts, in the discretion of the board of supervisors, and the board shall make the division in consideration of the needs of the various taxing districts. The funds so allocated shall be used only for purposes as are authorized by law.

SOURCES: Codes, 1942, § 9417-03; Laws, 1944, ch. 134, § 3a; Laws, 1950, ch. 510; Laws, 1982, ch. 495, § 5; Laws, 1984, ch. 478, § 17; Laws, 1985, ch. 419, § 2; Laws, 1988, ch. 374; Laws, 1988 Ex Sess, ch. 14, § 17; Laws, 1991, ch. 585, § 1; Laws, 1992, ch. 562, § 1; Laws, 2002, ch. 450, § 2; Laws, 2013, ch. 533, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment, in both versions, added the numbered designators; in (1), inserted "in this article" and substituted "Department of Revenue" for "State Tax Commission"; in the introductory paragraph of (2), added the exception at the beginning and inserted "made pursuant to this article" in the first sentence; added (4); in (5), in the introductory paragraph, substituted "the taxes collected pursuant to this article" for "said funds" in the first sentence, and substituted "provided in this subsection" for "hereinafter provided" at the end of the first and second paragraphs; and made stylistic changes throughout the section.

ARTICLE 7.

NATURAL GAS SEVERED OR PRODUCED IN STATE.

§ 27-25-701. Definitions.

Whenever used in this article, the following words and terms shall have the definition and meaning ascribed to them in this section, unless the intention to give a more limited meaning is disclosed by the context:

(a) "Tax commission" or "department" means the Department of Revenue of the State of Mississippi.

(b) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(c) "Annual" means the calendar year or the taxpayer's fiscal year when permission is obtained from the commissioner to use a fiscal year as a tax period in lieu of a calendar year.

(d) "Value" means the sale price, or market value, at the mouth of the well. If the gas is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the commissioner shall determine the value of the gas subject to tax, considering the sale price for cash of gas of like quality in the same or nearest gas-producing field.

(e) "Taxpayer" means any person liable for the tax imposed by this article.

(f) "Gas" means natural and casinghead gas and any gas or vapor taken from below the surface of the soil or water in this state, regardless of whether produced from a gas well or from a well also productive of oil or any other product; provided, however, the term "gas" shall not include carbon dioxide.

(g) "Casinghead gas" means any gas or vapor indigenous to an oil stratum and produced from such stratum with oil.

(h) "Severed" means the extraction or withdrawing by any means whatsoever, from below the surface of the soil or water, of any gas.

(i) "Person" means any natural person, firm, copartnership, joint venture, association, corporation, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular number.

(j) "Producer" means any person owning, controlling, managing or leasing any oil or gas property, or oil or gas well, and any person who produces in any manner any gas by taking it from the earth or water in this state, and shall include any person owning any royalty or other interest in

any gas or its value, whether produced by him, or by some other person on his behalf, either by lease contract or otherwise.

(k) "Engaging in business" means any act or acts engaged in (personal or corporate) by producers, or parties at interest, the result of which gas is severed from the soil or water, for storage, transport or manufacture, or by which there is an exchange of money, or goods, or thing of value, for gas which has been or is in process of being severed from the soil or water.

(*l*) "Production" means the total gross amount of gas produced, including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this article shall be measured or determined by meter readings showing one hundred percent (100%) of the full volume expressed in cubic feet at a standard base and flowing temperature of sixty (60) degrees Fahrenheit and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and for specific gravity according to the gravity at which the gas is sold and purchased or if not so specified, according to test made by the balance method.

(m) "Gathering system" means the pipelines, compressors, pumps, regulators, separators, dehydrators, meters, metering installations and all other property used in gathering gas from the well from which it is produced if such properties are owned by other than the operator, and all such properties, if owned by the operator, beyond the first metering installation that is nearest the well.

(n) "Discovery well" means any well producing gas from a single pool in which a well has not been previously produced in paying quantities after testing.

(o) "Development wells" means all gas-producing wells other than discovery wells and replacement wells.

(p) "Replacement well" means a well drilled on a drilling and/or production unit to replace another well which is drilled in the same unit and completed in the same pool.

(q) "Three-dimensional seismic" means data which is regularly organized in three (3) orthogonal directions and thus suitable for interpretation with a three-dimensional software package on an interactive work station.

(r) "Two-year inactive well" means any oil or gas well certified by the State Oil and Gas Board as having not produced oil or gas in more than a total of thirty (30) days during a twelve-consecutive-month period in the two (2) years before the date of certification.

(s) "Horizontally drilled well" means a well in which the deviation of the borehole is at least eighty degrees (80°) from vertical so that the borehole penetrates a productive formation in a manner parallel to the formation and in which there is at least one thousand (1,000) feet of lateral penetration through productive reservoirs.

(t) "Horizontally drilled recompletion well" means an existing well in which the deviation of the borehole is at least eighty degrees (80°) from vertical so that the borehole penetrates a productive formation in a manner

parallel to the formation and in which there is at least one thousand (1,000) feet of lateral penetration through productive reservoirs.

SOURCES: Codes, 1942, § 9417.5-01; Laws, 1948, ch. 447, § 1; Laws, 1994, ch. 545, § 3; Laws, 1995, ch. 531, § 3; Laws, 1999, ch. 460, § 1; Laws, 2004, ch. 496, § 1; Laws, 2009, ch. 492, § 64; Laws, 2013, ch. 533, § 4, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (s) and (t).

§ 27-25-703. Privilege tax levied; exemptions [Paragraph (1)(b) repealed effective July 1, 2018].

(1)(a) Except as otherwise provided in this section, there is hereby levied, to be collected as provided in this article, annual privilege taxes upon every person engaging or continuing within this state in the business of producing, or severing gas from below the soil or water for sale, transport, storage, profit or for commercial use. The amount of the tax shall be measured by the value of the gas produced and shall be levied and assessed at a rate of six percent (6%) of the value of the gas at the point of production, except as otherwise provided in subsection (4) of this section.

(b)(i) The tax shall be levied and assessed at the rate of one and three-tenths percent (1.3%) of the value of the gas at the point of production on gas produced from a horizontally drilled well or from any horizontally drilled recompletion well from which production commences from and after July 1, 2013, for a period of thirty (30) months beginning on the date of first sale of production or until payout of the well cost is achieved, whichever first occurs. Thereafter, the tax shall be levied and assessed as provided for in paragraph (a) of this subsection.

(ii) Payout of a horizontally drilled well or horizontally drilled recompletion well shall be deemed to have occurred the first day of the next month after gross revenues, less royalties and severance taxes, equal to the cost to drill and complete the well.

(iii) Each operator must apply by letter to the State Oil and Gas Board for the reduced rate provided in this paragraph (b), and shall provide the board with the status of payout on a semiannual basis of any horizontally drilled well or horizontally drilled recompletion well by signed affidavit executed by a company representative.

(iv) This paragraph (b) shall be repealed from and after July 1, 2018; however, any horizontally drilled well or horizontally drilled recompletion well from which production commences before July 1, 2018, shall be taxed as provided for in this paragraph (b) notwithstanding that the repeal of this paragraph (b) has become effective.

(2) The tax is levied upon the entire production in this state, regardless of the place of sale or to whom sold or by whom used, or the fact that the delivery may be made to points outside the state, but not levied upon that gas, lawfully injected into the earth for cycling, repressuring, lifting or enhancing the

recovery of oil, nor upon gas lawfully vented or flared in connection with the production of oil, nor upon gas condensed into liquids on which the oil severance tax of six percent (6%) is paid; however, if any gas so injected into the earth is sold for such purposes, then the gas so sold shall not be excluded in computing the tax. The tax shall accrue at the time the gas is produced or severed from the soil or water, and in its natural, unrefined or unmanufactured state.

(3) Natural gas and condensate produced from any wells for which drilling is commenced after March 15, 1987, and before July 1, 1990, shall be exempt from the tax levied under this section for a period of two (2) years beginning on the date of first sale of production from such wells.

(4)(a) Any well which begins commercial production of occluded natural gas from coal seams on or after March 20, 1990, and before July 1, 1993, shall be taxed at the rate of three and one-half percent (3-½%) of the gross value of the occluded natural gas from coal seams at the point of production for a period of five (5) years after such well begins production.

(b) Any well which begins commercial production of occluded natural gas from coal seams on or after July 1, 2004, and before July 1, 2007, shall be taxed at the rate of three percent (3%) of the gross value of the occluded natural gas from coal seams at the point of production for a period of five (5) years beginning on the date of the first sale of production from such well.

(5)(a) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after April 1, 1994, but before July 1, 1999, shall be exempt from the tax levied under this section for a period of five (5) years beginning on the earlier of one (1) year from completion of the well or the date of first sale from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from discovery wells as described in this paragraph (a) shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be exempt for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Natural gas produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after January 1, 1994, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of three (3) years. The reduced rate of assessment of natural gas produced from development wells or replacement wells as described in this paragraph (a) shall be repealed from and after January 1, 2003, provided that any such production for which drilling commenced before January 1, 2003, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after July 1, 1999, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of five (5) years beginning on the earlier of one (1) year from completion of

the well or the date of first sale from such well, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of natural gas produced from discovery wells as described in this paragraph (b) shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Natural gas produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after July 1, 1999, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of three (3) years. The reduced rate of assessment of natural gas produced from development wells or replacement wells as described in this paragraph (b) shall be repealed from and after January 1, 2003, provided that any such production for which drilling commenced before January 1, 2003, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(6)(a) Gas produced from a development well for which drilling commenced on or after April 1, 1994, but before July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well, shall be assessed at a rate of three percent (3%) of the value of the gas at the point of production for a period of five (5) years, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of gas produced from a development well as described in this subsection and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(b) Gas produced from a development well for which drilling commenced on or after July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well, shall be assessed at a rate of three percent (3%) of the value of the gas at the point of production for a period of five (5) years, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of gas produced from a development well as described in this paragraph (b) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2003, provided that any such production for which a permit was granted by the board before July 1, 2003, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(7)(a) Natural gas produced before July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be exempt from the taxes levied

under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from an inactive well as described in this subsection shall be repealed from and after July 1, 2003, provided that any such production which began before July 1, 2003, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced on or after July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from an inactive well as described in this paragraph (b) shall be repealed from and after July 1, 2003, provided that any such production which began before July 1, 2003, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(8) The State Oil and Gas Board shall have the exclusive authority to determine the qualification of wells defined in paragraphs (n) through (t) of Section 27-25-701.

SOURCES: Codes, 1942, § 9417.5-02; Laws, 1948, ch. 447, § 2; Laws, 1984, ch. 451, § 2; Laws, 1987, ch. 428, § 2; Laws, 1988, ch. 485, § 2; Laws, 1989, ch. 520, § 2; Laws, 1990, ch. 439, § 1; Laws, 1994, ch. 545, § 4; Laws, 1995, ch. 531, § 4; Laws, 1999, ch. 460, § 2; Laws, 1999, ch. 523, § 2; Laws, 2004, ch. 496, § 2; Laws, 2013, ch. 533, § 5, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment, in (1), added the (a) designator, substituted "in this section" for "herein" and "in this article" for "herein" in the first sentence and substituted "of the gas" for "thereof" in the last sentence, and added (b); substituted "paragraphs (n) through (t)" for "paragraphs (n) through (r)" near the end of (8); and made stylistic changes throughout the section.

Cross References — Tax collections made pursuant to paragraph (1)(b) of this section to be apportioned to the county in which the oil was produced, see § 27-25-705.

§ 27-25-705. Distribution of tax.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

(1) All taxes levied in this article and collected by the department shall be paid into the State Treasury on the same day in which the taxes are collected.

(2) Except as otherwise provided in this section, the commissioner shall apportion all the tax collections made pursuant to this article to the state and to the county in which the gas was produced, in the proportion of sixty-six and two-thirds percent (66-⅔%) to the state and thirty-three and one-third percent (33-⅓%) to the county.

(3) The commissioner shall apportion all the tax collections made pursuant to Section 27-25-703(1)(b) to the county in which the gas is produced.

(4) When the producer of gas subject to the tax levied in this article increases the price of the gas sold and such increase is subject to approval by a federal regulatory board or commission, and when the producer of the gas so requests, the State Treasurer is hereby authorized to hold the severance tax collected on the price increase in escrow until such time as the price increase or a portion thereof is finally granted or approved. The severance tax thus held in escrow shall be deposited by the State Treasurer to an account in a state depository to be invested in an interest-bearing account in the manner provided by law. When the price increase in question or a portion thereof is granted or approved, the commissioner shall compute the correct severance tax due on the increase and certify the amount of tax thus computed. This amount and interest earned from the depository shall be distributed to the General Fund and to the county or counties proportionately as provided in this subsection. The balance, if any, of the tax and interest held in escrow on the price increase shall be returned to the taxpayer.

(5) The state's share of all gas severance taxes collected pursuant to this section shall be deposited as provided for in Section 27-25-506.

(6) The commissioner shall certify at the end of each month the apportionment to each county to the State Treasurer, who shall remit the county's share of the funds on or before the twentieth day of the month next succeeding the month in which the collections were made for division among the municipalities and taxing districts of the county. The commissioner shall submit a report to the State Treasurer for distribution to each county receiving the funds showing from whom the tax and interest, if any, were collected. Upon receipt of the funds, the board of supervisors of the county shall allocate the funds to the municipalities and to the various maintenance and bond and interest funds of the county, school districts, supervisors districts and road districts, as provided in this subsection.

When there are any gas producing properties within the corporate limits of any municipality, then the municipality shall participate in the division of the tax and interest, if any, returned to the county in which the municipality is located in the proportion which the tax on production of gas from properties located within the municipal corporate limits bears to the tax on total production of gas in the county. In no event, however, shall the amount allocated to the municipalities exceed one-third (1/3) of the tax and interest produced in the municipality and returned to the county. Any amount received by any municipality as a result of the allocation provided for in this subsection shall be used for such purposes as are authorized by law.

The balance remaining of any funds returned to the county after the allocation to municipalities shall be divided among the various maintenance and bond and interest funds of the county, school districts, supervisors districts and road districts, in the discretion of the board of supervisors, and

the board shall make the division in consideration of the needs of the various taxing districts. The funds so allocated shall be used only for such purposes as are authorized by law.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3, this section shall read as follows:]

(1) All taxes herein levied in this article and collected by the department shall be paid into the State Treasury on the same day in which the taxes are collected.

(2) Except as otherwise provided in this section, the commissioner shall apportion all the tax collections made pursuant to this article to the state and to the county in which the gas was produced, in the proportion of sixty-six and two-thirds percent (66-⅔%) to the state and thirty-three and one-third percent (33-⅓%) to the county.

(3) The commissioner shall apportion all the tax collections made pursuant to Section 27-25-703(1)(b) to the county in which the gas is produced.

(4) When the producer of gas subject to the tax levied in this article increases the price of the gas sold and the increase is subject to approval by a federal regulatory board or commission, and when the producer of the gas so requests, the State Treasurer is hereby authorized to hold the severance tax collected on the price increase in escrow until such time as the price increase or a portion thereof is finally granted or approved. The severance tax thus held in escrow shall be deposited by the State Treasurer to an account in a state depository to be invested in an interest-bearing account in the manner provided by law. When the price increase in question or a portion thereof is granted or approved, the commissioner shall compute the correct severance tax due on the increase and certify the amount of tax thus computed. This amount and interest earned from the depository shall be distributed to the General Fund and to the county or counties proportionately as provided in this subsection. The balance, if any, of the tax and interest held in escrow on the price increase shall be returned to the taxpayer.

(5) The state's share of all gas severance taxes collected pursuant to this section shall be deposited as provided for in Section 27-25-506.

(6) The commissioner shall certify at the end of each month the apportionment to each county to the State Treasurer, who shall remit the county's share of the funds on or before the twentieth day of the month next succeeding the month in which the collections were made for division among the municipalities and taxing districts of the county. The commissioner shall submit a report to the State Treasurer for distribution to each county receiving the funds showing from whom the tax and interest, if any, were collected. Upon receipt of the funds, the board of supervisors of the county shall allocate the funds to the municipalities and to the various maintenance and bond and interest funds of the county and school districts, as provided in this subsection.

When there are any gas producing properties within the corporate limits of any municipality, then the municipality shall participate in the division of the tax and interest, if any, returned to the county in which the municipality is located in the proportion which the tax on production of gas from properties located within the municipal corporate limits bears to the tax on total production of gas in the county. In no event, however, shall the amount allocated to the municipalities exceed one-third (⅓) of the tax and interest produced in the municipality and returned to the county. Any amount received by any municipality as a result of the allocation provided for in this subsection shall be used for such purposes as are authorized by law.

The balance remaining of any funds returned to the county after the allocation to municipalities shall be divided among the various maintenance and bond and interest funds of the county and school districts, in the discretion of the board of supervisors, and the board shall make the division in consideration of the needs of the various taxing districts. The funds so allocated shall be used only for such purposes as are authorized by law.

SOURCES: Codes, 1942, § 9417.5-03; Laws, 1948, ch. 447, § 3; Laws, 1971, ch. 465, § 1; Laws, 1972, ch. 524, § 1; Laws, 1973, ch. 436, § 1; Laws, 1982, ch. 495, § 6; Laws, 1984, ch. 478, § 18; Laws, 1985, ch. 419, § 3; Laws, 1988 Ex Sess, ch. 14, § 18; Laws, 1991, ch. 585, § 2; Laws, 1992, ch. 562, § 2; Laws, 2002, ch. 450, § 3; Laws, 2013, ch. 533, § 6, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment, in both versions, added the numbered designators; in (1), inserted "in this article" and substituted "department" for "State Tax Commission"; in (2), added the exception at the beginning and inserted "made pursuant to this article" near the middle; added (3); substituted "provided in this subsection" for "herein provided" at the end of fourth sentence in (4) and in the last sentence in the second paragraph in (6); substituted "provided in this subsection" for "hereinafter provided" in the last sentence of the first paragraph in (6); and made stylistic changes throughout the section.

CHAPTER 31

Ad Valorem Taxes—General Exemptions

IN GENERAL

§ 27-31-1. Exempt property.

The following shall be exempt from taxation:

(a) All cemeteries used exclusively for burial purposes.

(b) All property, real or personal, belonging to the State of Mississippi or any of its political subdivisions, except property of a municipality not being used for a proper municipal purpose and located outside the county or counties in which such municipality is located. A proper municipal purpose within the meaning of this section shall be any authorized governmental or corporate function of a municipality.

(c) All property, real or personal, owned by units of the Mississippi National Guard, or title to which is vested in trustees for the benefit of any unit of the Mississippi National Guard; provided such property is used exclusively for such unit, or for public purposes, and not for profit.

(d) All property, real or personal, belonging to any religious society, or ecclesiastical body, or any congregation thereof, or to any charitable society, or to any historical or patriotic association or society, or to any garden or pilgrimage club or association and used exclusively for such society or association and not for profit; not exceeding, however, the amount of land which such association or society may own as provided in Section 79-11-33. All property, real or personal, belonging to any rural waterworks system or rural sewage disposal system incorporated under the provisions of Section 79-11-1. All property, real or personal, belonging to any college or institution for the education of youths, used directly and exclusively for such purposes, provided that no such college or institution for the education of youths shall have exempt from taxation more than six hundred forty (640) acres of land; provided, however, this exemption shall not apply to commercial schools and colleges or trade institutions or schools where the profits of same inure to individuals, associations or corporations. All property, real or personal, belonging to an individual, institution or corporation and used for the operation of a grammar school, junior high school, high school or military school. All property, real or personal, owned and occupied by a fraternal and benevolent organization, when used by such organization, and from which no rentals or other profits accrue to the organization, but any part rented or from which revenue is received shall be taxed.

(e) All property, real or personal, held and occupied by trustees of public schools, and school lands of the respective townships for the use of public schools, and all property kept in storage for the convenience and benefit of the State of Mississippi in warehouses owned or leased by the State of Mississippi, wherein said property is to be sold by the Alcoholic Beverage Control Division of the Department of Revenue of the State of Mississippi.

(f) All property, real or personal, whether belonging to religious or charitable or benevolent organizations, which is used for hospital purposes, and nurses' homes where a part thereof, and which maintain one or more charity wards that are for charity patients, and where all the income from said hospitals and nurses' homes is used entirely for the purposes thereof and no part of the same for profit.

(g) The wearing apparel of every person; and also jewelry and watches kept by the owner for personal use to the extent of One Hundred Dollars ($100.00) in value for each owner.

(h) Provisions on hand for family consumption.

(i) All farm products grown in this state for a period of two (2) years after they are harvested, when in the possession of or the title to which is in the producer, except the tax of one-fifth of one percent (⅕ of 1%) per pound on lint cotton now levied by the Board of Commissioners of the Mississippi Levee District; and lint cotton for five (5) years, and cottonseed, soybeans, oats, rice and wheat for one (1) year regardless of ownership.

(j) All guns and pistols kept by the owner for private use.

(k) All poultry in the hands of the producer.

(*l*) Household furniture, including all articles kept in the home by the owner for his own personal or family use; but this shall not apply to hotels, rooming houses or rented or leased apartments.

(m) All cattle and oxen.

(n) All sheep, goats and hogs.

(o) All horses, mules and asses.

(p) Farming tools, implements and machinery, when used exclusively in the cultivation or harvesting of crops or timber.

(q) All property of agricultural and mechanical associations and fairs used for promoting their objects, and where no part of the proceeds is used for profit.

(r) The libraries of all persons.

(s) All pictures and works of art, not kept for or offered for sale as merchandise.

(t) The tools of any mechanic necessary for carrying on his trade.

(u) All state, county, municipal, levee, drainage and all school bonds or other governmental obligations, and all bonds and/or evidences of debts issued by any church or church organization in this state, and all notes and evidences of indebtedness which bear a rate of interest not greater than the maximum rate per annum applicable under the law; and all money loaned at a rate of interest not exceeding the maximum rate per annum applicable under the law; and all stock in or bonds of foreign corporations or associations shall be exempt from all ad valorem taxes.

(v) All lands and other property situated or located between the Mississippi River and the levee shall be exempt from the payment of any and all road taxes levied or assessed under any road laws of this state.

(w) Any and all money on deposit in either national banks, state banks or trust companies, on open account, savings account or time deposit.

(x) All wagons, carts, drays, carriages and other horse-drawn vehicles, kept for the use of the owner.

(y)(i) Boats, seines and fishing equipment used in fishing and shrimping operations and in the taking or catching of oysters.

(ii) All towboats, tugboats and barges documented under the laws of the United States, except watercraft of every kind and character used in connection with gaming operations.

(z) All materials used in the construction and/or conversion of vessels in this state; vessels while under construction and/or conversion; vessels while in the possession of the manufacturer, builder or converter, for a period of twelve (12) months after completion of construction and/or conversion, and as used herein the term "vessel" shall include ships, offshore drilling equipment, dry docks, boats and barges, except watercraft of every kind and character used in connection with gaming operations.

(aa) Sixty-six and two-thirds percent (66-⅔%) of nuclear fuel and reprocessed, recycled or residual nuclear fuel by-products, fissionable or otherwise, used or to be used in generation of electricity by persons defined as public utilities in Section 77-3-3.

(bb) All growing nursery stock.

(cc) A semitrailer used in interstate commerce.

(dd) All property, real or personal, used exclusively for the housing of and provision of services to elderly persons, disabled persons, mentally impaired persons or as a nursing home, which is owned, operated and managed by a not-for-profit corporation, qualified under Section 501(c)(3) of the Internal Revenue Code, whose membership or governing body is appointed or confirmed by a religious society or ecclesiastical body or any congregation thereof.

(ee) All vessels while in the hands of bona fide dealers as merchandise and which are not being operated upon the waters of this state shall be exempt from ad valorem taxes. As used in this paragraph, the terms "vessel" and "waters of this state" shall have the meaning ascribed to such terms in Section 59-21-3.

(ff) All property, real or personal, owned by a nonprofit organization that: (i) is qualified as tax exempt under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended; (ii) assists in the implementation of the national contingency plan or area contingency plan, and which is created in response to the requirements of Title IV, Subtitle B of the Oil Pollution Act of 1990, Public Law 101-380; (iii) engages primarily in programs to contain, clean up and otherwise mitigate spills of oil or other substances occurring in the United States coastal or tidal waters; and (iv) is used for the purposes of the organization.

(gg) If a municipality changes its boundaries so as to include within the boundaries of such municipality the project site of any project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or 57-75-5(f)(xxviii), all real and personal property located on the project site within the boundaries of such municipality that is owned by a business enterprise operating such project, shall be exempt from ad valorem taxation for a period of time not to exceed thirty (30) years upon receiving approval for such exemption by the Mississippi Major Economic Impact Authority. The provisions of this paragraph shall not be construed to authorize a breach of any agreement entered into pursuant to Section 21-1-59.

(hh) All leases, lease contracts or lease agreements (including, but not limited to, subleases, sublease contracts and sublease agreements), and

leaseholds or leasehold interests (including, but not limited to, subleaseholds and subleasehold interests), of or with respect to any and all property (real, personal or mixed) constituting all or any part of a facility for the manufacture, production, generation, transmission and/or distribution of electricity, and any real property related thereto, shall be exempt from ad valorem taxation during the period as the United States is both the title owner of the property and a sublessee of or with respect to the property; however, the exemption authorized by this paragraph (hh) shall not apply to any entity to whom the United States sub-subleases its interest in the property nor to any entity to whom the United States assigns its sublease interest in the property. As used in this paragraph, the term "United States" includes an agency or instrumentality of the United States of America. This paragraph (hh) shall apply to all assessments for ad valorem taxation for the 2003 calendar year and each calendar year thereafter.

(ii) All property, real, personal or mixed, including fixtures and leaseholds, used by Mississippi nonprofit entities qualified, on or before January 1, 2005, under Section 501(c)(3) of the Internal Revenue Code to provide support and operate technology incubators for research and development start-up companies, telecommunication start-up companies and/or other technology start-up companies, utilizing technology spun-off from research and development activities of the public colleges and universities of this state, State of Mississippi governmental research or development activities resulting therefrom located within the State of Mississippi.

(jj) All property, real, personal or mixed, including fixtures and leaseholds, of start-up companies (as described in paragraph (ii) of this section) for the period of time, not to exceed five (5) years, that the start-up company remains a tenant of a technology incubator (as described in paragraph (ii) of this section).

(kk) All leases, lease contracts or lease agreements (including, but not limited to, subleases, sublease contracts and sublease agreements), and leaseholds or leasehold interests, of or with respect to any and all property (real, personal or mixed) constituting all or any part of an auxiliary facility, and any real property related thereto, constructed or renovated pursuant to Section 37-101-41, Mississippi Code of 1972.

SOURCES: Codes, Hutchinson's 1848, ch. 8, art. 2 (1); 1857, ch. 3, art. 11; 1871, § 1662; 1880, § 468; 1892, § 3744; 1906, § 4251; Hemingway's 1917, § 6878; 1930, § 3108; 1942, § 9697; Laws, 1928, ch. 185; Laws, 1932, chs. 137, 289; Laws, 1934, ch. 157; Laws, 1935, ch. 23; Laws, 1938, ch. 128; Laws, 1946, ch. 234, § 1; Laws, 1952, ch. 424; Laws, 1954, ch. 384; Laws, 1958, ch. 564; Laws, 1960, chs. 464, 465; Laws, 1966, ch. 639, § 1; Laws, 1968, ch. 582, § 1; Laws, 1971, ch. 412, § 1; Laws, 1972, ch. 448, § 1; Laws, 1978, ch. 410, § 4; Laws, 1980, ch. 479; Laws, 1984, ch. 456, § 1; Laws, 1986, ch. 403, § 1; Laws, 1988, ch. 506, § 2; Laws, 1990, ch. 463, § 1; Laws, 1992, ch. 418, § 1; Laws, 1993, ch. 604, § 1; Laws, 1998, ch. 469, § 1; Laws, 1999, ch. 450, § 1; Laws, 2000, 3rd Ex Sess, ch. 1, § 23; Laws, 2003, ch. 476, § 1; Laws, 2004, ch. 494, § 1; Laws, 2007, ch. 303, § 8; Laws, 2009, ch. 565, § 4; Laws, 2013, 1st Ex Sess, ch. 1, § 14, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2013 amendment substituted "Department of Revenue" for "State Tax Commission" in (e); inserted "or 57-75-5(f)(xxviii)" in (gg); and made a minor stylistic change.

§ 27-31-30. Certain military housing units and ancillary supporting facilities.

Military housing units and ancillary supporting facilities that are acquired or constructed pursuant to the Military Housing Privatization Initiative (10 USC 2871 et seq.) to support and house active duty military personnel and their families and Department of Defense civilian personnel shall be exempt from ad valorem taxation.

SOURCES: Laws, 2011, ch. 480, § 33, eff from and after passage (approved Apr. 6, 2011.)

§ 27-31-32. Exemption from certain ad valorem taxes for residential structures improved, renovated or converted in areas designated as blighted; procedure.

(1) The governing authorities of any municipality are authorized, in their discretion, to grant exemptions from ad valorem taxation, except ad valorem taxation for school district purposes, for improvements to or renovations of existing residential structures or existing structures converted for residential use that are located in the areas that are designated as blighted by the municipality, for a period of not more than ten (10) years from the date of the completion of the improvement to or renovation of the existing structure for which the exemption is granted.

(2) Any person, firm or corporation desiring to obtain the exemption authorized in this section shall first file a written application for the exemption with the governing authorities of the municipality, providing full information about the property for which the exemption is requested, including the true value of the property, and the date from which the exemption is to begin. Any application for an exemption under this section must be made within twelve (12) months from the date of the completion of the improvement to or renovation of the existing structure for which the exemption is requested. The governing authorities of the municipality may, by order spread on their minutes, approve an application for all or any part of the property for which the exemption is requested and for all or any part of the authorized period of exemption. The order shall specify the property to be exempted and the dates when the exemption begins and expires. The municipal clerk shall record the application and the order approving the exemption in a book kept in his office for that purpose, and shall file one (1) copy of the application and the order with the Department of Revenue.

(3) Any exemption granted under this section shall be in lieu of ad valorem tax exemptions authorized under any other provision of law.

SOURCES: Laws, 2013, ch. 504, § 2, eff from and after July 1, 2013.

§ 27-31-33. Certain leasehold interests belonging to the state or a political subdivision.

ATTORNEY GENERAL OPINIONS

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

§ 27-31-34. Possessory and leasehold interests of lessees under certain lease contracts, leases or leaseholds.

ATTORNEY GENERAL OPINIONS

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

FREE PORT WAREHOUSES

SEC.

§ 27-31-51. Licensing; definitions.

(1) As used in Sections 27-31-51 through 27-31-61:

(a) "Warehouse" or "storage facility" shall not apply to caves or cavities in the earth, whether natural or artificial;

(b) "Governing authorities" means the board of supervisors of the county wherein the warehouse or storage facility is located or the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be;

(c) "Tax assessor" means the tax assessor of each taxing jurisdiction in which the warehouse or storage facility may be located.

(2) All warehouses, public or private, or other storage facilities in the State of Mississippi regularly engaged in the handling and storage of personal property in structures or in places adopted for such handling and storage which is consigned or transferred to such warehouse or storage facility for storage and handling shall be eligible for licensing under the provisions of

Sections 27-31-51 through 27-31-61 as a "free port warehouse." A manufacturer of personal property that maintains separate facilities, structures, places or areas for the temporary storage and handling of such personal property pending transit to a final destination outside the State of Mississippi shall be eligible for licensing under Sections 27-31-51 through 27-31-61 as a "free port warehouse," and any license issued to such a manufacturer before January 1, 2012, is hereby ratified, approved and confirmed.

(3) Such licenses shall be issued by the governing authorities to such warehouse or storage facility as will qualify under the definition of "free port warehouse" as herein defined, upon application by the warehouse or storage facility operator.

SOURCES: Codes, 1942, § 9699-01; Laws, 1962, ch. 595, § 1; Laws, 1981, ch. 419, § 1; Laws, 1993, ch. 621, § 2; Laws, 2002, ch. 402, § 1; Laws, 2012, ch. 342, § 1, eff from and after Jan. 1, 2012.

Amendment Notes — The 2012 amendment added the last sentence in (2).

§ 27-31-53. Exemption from taxation of personal property in transit through state.

[Through June 30, 2013, this section shall read as follows:]

All or a portion of the assessed value of personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage and handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. Any exemption granted to a licensed "free port warehouse" pursuant to this section shall be effective as of the first calendar day of the taxable year in which the warehouse applied for the exemption by virtue of submitting the application for licensure, and shall remain in effect for such period of time as the respective governing authority may prescribe. The governing authorities may exempt all or a portion of the assessed value of such property. Such property shall not be deprived of such exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before January 1, 2012, is hereby ratified, approved and confirmed.

[From and after July 1, 2013, this section shall read as follows:]

All personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage or handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. Any exemption granted to a licensed "free port warehouse" pursuant to this section shall be effective as of the first calendar day of the taxable year in which the warehouse applied for the exemption by virtue of submitting the application for licensure, and shall remain in effect for such period of time as the respective governing authority may prescribe. Such property shall not be deprived of exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before January 1, 2012, is hereby ratified, approved and confirmed.

SOURCES: Codes, 1942, § 9699-02; Laws, 1962, ch. 595, § 2; Laws, 1981, ch. 419, § 2; Laws, 2003, ch. 511, § 1; Laws, 2012, ch. 342, § 2; Laws, 2013, ch. 325, § 1, eff from and after passage (approved March 7, 2013.)

Amendment Notes — The 2012 amendment provided two versions of the section, the first version effective through June 30, 2013, and the second version effective from and after July 1, 2013, substituted "(a)" for "(1)", "(b)" for "(2)" and added (c) in the first sentence and added the last sentence.

The 2013 amendment deleted "and for such period of time as the respective governing body may prescribe" in the first sentence, and added the second sentence in the first paragraph.

NEW FACTORIES AND ENTERPRISES

SEC.

§ 27-31-101. Enumeration of new enterprises which may be exempted.

[Through June 30, 2022, this section shall read as follows:]

(1) County boards of supervisors and municipal authorities are hereby authorized and empowered, in their discretion, to grant exemptions from ad valorem taxation, except state ad valorem taxation; however, such governing authorities shall not exempt ad valorem taxes for school district purposes on tangible property used in, or necessary to, the operation of the manufacturers and other new enterprises enumerated by classes in this section, except to the extent authorized in Sections 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem taxes the products of the manufacturers or other new enterprises or automobiles and trucks belonging to the manufacturers or other new enterprises operating on and over the highways of the State of Mississippi. The time of such exemption shall be for a period not to exceed a total of ten (10) years which shall begin on the date of completion of the new enterprise for which the exemption is granted; however, boards of supervisors and municipal authorities, in lieu of granting the exemption for one (1) period of ten (10) years, may grant the exemption in a period of less than ten (10) years. When the initial exemption period granted is less than ten (10) years, the boards of supervisors and municipal authorities may grant a subsequent consecutive period or periods to follow the initial period of exemption, provided that the total of all periods of exemption shall not exceed ten (10) years. The date of completion of the new enterprise, from which the initial period of exemption shall begin, shall be the date on which operations of the new enterprise begin. The initial request for an exemption must be made in writing by June 1 of the year immediately following the year in which the date of completion of a new enterprise occurs. If the initial request for the exemption is not timely made, the board of supervisors or municipal authorities may grant a subsequent request for the exemption and, in such case, the exemption shall begin on the anniversary date of completion of the enterprise in the year in which the request is made and may be for a period of time extending not more than ten (10) years from the date of completion of the new enterprise. Any subsequent request for the exemption must be made in writing by June 1 of the year in which it is granted.

(2) Any board of supervisors or municipal authority which has granted an exemption for a period of less than ten (10) years may grant subsequent periods of exemption to run consecutively with the initial exemption period, or a subsequently granted exemption period, but in no case shall the total of the exemption periods granted for a new enterprise exceed ten (10) years. Any consecutive period of exemption shall be granted by entry of an order by the board or the authority granting the consecutive exemption on its minutes, reflecting the granting of the consecutive exemption period and the dates upon which such consecutive exemption period begins and expires. The entry of this order granting the consecutive period of exemption shall be

made before the expiration of the exemption period immediately preceding the consecutive exemption period being granted.

(3) The new enterprises which may be exempt are enumerated as and limited to the following, as determined by the Department of Revenue:

(a) Warehouse and/or distribution centers;

(b) Manufacturing, processors and refineries;

(c) Research facilities;

(d) Corporate regional and national headquarters meeting minimum criteria established by the Mississippi Development Authority;

(e) Movie industry studios meeting minimum criteria established by the Mississippi Development Authority;

(f) Air transportation and maintenance facilities meeting minimum criteria established by the Mississippi Development Authority;

(g) Recreational facilities that impact tourism meeting minimum criteria established by the Mississippi Development Authority;

(h) Data/information processing enterprises meeting minimum criteria established by the Mississippi Development Authority;

(i) Technology intensive enterprises or facilities meeting criteria established by the Mississippi Development Authority;

(j) Health care industry facilities as defined in Section 57-117-3; and

(k) Telecommunications enterprises meeting minimum criteria established by the Mississippi Development Authority. The term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

[From and after July 1, 2022, this section shall read as follows:]

(1) County boards of supervisors and municipal authorities are hereby authorized and empowered, in their discretion, to grant exemptions from ad valorem taxation, except state ad valorem taxation; however, such governing authorities shall not exempt ad valorem taxes for school district purposes on tangible property used in, or necessary to, the operation of the manufacturers and other new enterprises enumerated by classes in this section, except to the extent authorized in Sections 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem taxes the products of the manufacturers or other new enterprises or automobiles and trucks belonging to the manufacturers or other new enterprises operating on and over the highways of the State of Mississippi. The time of such exemption shall be for a period not to exceed a total of ten (10) years which shall begin on the date of completion

of the new enterprise for which the exemption is granted; however, boards of supervisors and municipal authorities, in lieu of granting the exemption for one (1) period of ten (10) years, may grant the exemption in a period of less than ten (10) years. When the initial exemption period granted is less than ten (10) years, the boards of supervisors and municipal authorities may grant a subsequent consecutive period or periods to follow the initial period of exemption, provided that the total of all periods of exemption shall not exceed ten (10) years. The date of completion of the new enterprise, from which the initial period of exemption shall begin, shall be the date on which operations of the new enterprise begin. The initial request for an exemption must be made in writing by June 1 of the year immediately following the year in which the date of completion of a new enterprise occurs. If the initial request for the exemption is not timely made, the board of supervisors or municipal authorities may grant a subsequent request for the exemption and, in such case, the exemption shall begin on the anniversary date of completion of the enterprise in the year in which the request is made and may be for a period of time extending not more than ten (10) years from the date of completion of the new enterprise. Any subsequent request for the exemption must be made in writing by June 1 of the year in which it is granted.

(2) Any board of supervisors or municipal authority which has granted an exemption for a period of less than ten (10) years may grant subsequent periods of exemption to run consecutively with the initial exemption period, or a subsequently granted exemption period, but in no case shall the total of the exemption periods granted for a new enterprise exceed ten (10) years. Any consecutive period of exemption shall be granted by entry of an order by the board or the authority granting the consecutive exemption on its minutes, reflecting the granting of the consecutive exemption period and the dates upon which such consecutive exemption period begins and expires. The entry of this order granting the consecutive period of exemption shall be made before the expiration of the exemption period immediately preceding the consecutive exemption period being granted.

(3) The new enterprises which may be exempt are enumerated as and limited to the following, as determined by the Department of Revenue:

(a) Warehouse and/or distribution centers;

(b) Manufacturing, processors and refineries;

(c) Research facilities;

(d) Corporate regional and national headquarters meeting minimum criteria established by the Mississippi Development Authority;

(e) Movie industry studios meeting minimum criteria established by the Mississippi Development Authority;

(f) Air transportation and maintenance facilities meeting minimum criteria established by the Mississippi Development Authority;

(g) Recreational facilities that impact tourism meeting minimum criteria established by the Mississippi Development Authority;

(h) Data/information processing enterprises meeting minimum criteria established by the Mississippi Development Authority;

(i) Technology intensive enterprises or facilities meeting criteria established by the Mississippi Development Authority; and

(j) Telecommunications enterprises meeting minimum criteria established by the Mississippi Development Authority. The term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

SOURCES: Codes, 1930, § 3109; 1942, § 9703; Laws, 1922, ch. 139; Laws, 1928, chs. 10, 100; Laws, 1928, Ex. ch. 57; Laws, 1930, ch. 67; Laws, 1932, ch. 293; Laws, 1936, ch. 159; Laws, 1936, 2nd Ex. ch. 17; Laws, 1938, Ex. ch. 76; Laws, 1942, ch. 132; Laws, 1944, ch. 135; Laws, 1946, chs. 208, 448; Laws, 1948, ch. 439; Laws, 1950, ch. 528; Laws, 1952, chs. 420 (§ 1), 422; Laws, 1954, chs. 363, 382; Laws, 1956, chs. 202 (§§ 1, 2), 203 (§§ 1, 2); Laws, 1958, chs. 566 (§ 1), 567 (§§ 1, 2); Laws, 1960, ch. 467; Laws, 1961, 2nd Ex. ch. 7, § 1; Laws, 1962, ch. 269, § 1; Laws, 1963, 1st Ex Sess. ch. 35, § 1; Laws, 1964, ch. 520, § 1; Laws, 1968, ch. 583, § 1; Laws, 1970, ch. 545, § 1; Laws, 1972, ch. 495, § 1; Laws, 1978, ch. 514, § 4; Laws, 1981, ch. 523, § 1; Laws, 1986, ch. 407, § 1; Laws, 1987, ch. 411, § 1; Laws, 1989, ch. 524, § 15; Laws, 1990, ch. 502, § 3; Laws, 1990 Ex Sess, ch. 71, § 1; Laws, 1992, ch. 518, § 2; Laws, 1994, ch. 571, § 1; Laws, 1994, ch. 558, § 18; Laws, 1995, ch. 355, § 1; Laws, 1995, ch. 527, § 1; Laws, 2000, ch. 591, § 1; Laws, 2005, ch. 513, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 62; Laws, 2012, ch. 520, § 7, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment provided two versions of the section. In both versions, substituted "Department of Revenue" for "State Tax Commission" in (3); substituted "Mississippi Development Authority" for "Department of Economic and Community Development" at the end of (3)(d); and in the first version of the section, added (3)(j).

ATTORNEY GENERAL OPINIONS

An ad valorem property tax exemption granted to a factory or plant under Miss. Code Ann. § 27-31-101 may be canceled by a municipality or county a minimum of 12 months after manufacturing ceases. Ross, February 23, 2007, A.G. Op. #07-00080, 2007 Miss. AG LEXIS 28.

Whether a proposal constitutes a "project" for purposes of qualifying for a "fee-in-lieu" of ad valorem tax under Miss. Code Ann. § 27-31-104 is a factual determination which must be made by the Mississippi Development Authority. A Project qualifying for fee-in-lieu is entitled to a single 10-year exemption based on the completion of the single qualifying project. Welch, February 2, 2007, A.G. Op. #07-00013, 2007 Miss. AG LEXIS 9.

§ 27-31-104. Grant of fee in lieu of taxes for certain projects.

[Through June 30, 2022, this section shall read as follows:]

(1) County boards of supervisors and municipal authorities are hereby authorized and empowered to grant a fee-in-lieu of taxes, including taxes levied for school purposes, for projects totaling over One Hundred Million Dollars ($100,000,000.00). In addition to those new enterprises enumerated in Section 27-31-101, Mississippi Code of 1972, the term "projects," as used in this section, shall include:

(a) A private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of One Hundred Million Dollars ($100,000,000.00).

(b) A qualified business (as such term is defined in Section 57-117-3) meeting minimum criteria established by the Mississippi Development Authority.

(2) The fee-in-lieu shall be negotiated by and given final approval by the Mississippi Development Authority.

(3) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (⅓) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Except as otherwise provided in Section 57-75-33, the agreement shall be for a term of not more than ten (10) years.

(4) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (⅓) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (⅓) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(5) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(6) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

(7) For a project as defined in Section 57-75-5(f)(xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the debt service on bonds issued by the county pursuant to Section 57-75-37(3)(c).

[From and after July 1, 2022, this section shall read as follows:]

(1) County boards of supervisors and municipal authorities are hereby authorized and empowered to grant a fee-in-lieu of taxes, including taxes levied for school purposes, for projects totaling over One Hundred Million Dollars ($100,000,000.00). In addition to those new enterprises enumerated in Section 27-31-101, Mississippi Code of 1972, the term "projects," as used in this section, shall include a private company (as such term is defined in Section 57-61-5, Mississippi Code of 1972) having a minimum capital investment of One Hundred Million Dollars ($100,000,000.00).

(2) The fee-in-lieu shall be negotiated by and given final approval by the Mississippi Development Authority.

(3) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (⅓) of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Except as otherwise provided in Section 57-75-33, the agreement shall be for a term of not more than ten (10) years.

(4) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (⅓) of that amount. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or one-third (⅓) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

(5) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the members of the regional economic develop-

ment alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

(6) For a project as defined in Section 57-75-5(f)(xxvi), the board of supervisors of the county in which the project is located may negotiate with the school district in which the project is located and apportion to the school district an amount of the fee-in-lieu that is agreed upon in the negotiations different than the amount provided for in subsection (3) of this section.

(7) For a project as defined in Section 57-75-5(f)(xxviii), the annual amount of the fee-in-lieu apportioned to the county shall not be less than the amount necessary to pay the annual debt service on bonds issued by the county pursuant to Section 57-75-37(3)(c).

SOURCES: Laws, 1989, ch. 524, § 16; Laws, 1990 Ex Sess, ch. 71, § 2; Laws, 2007, ch. 303, § 28; Laws, 2010, ch. 301, § 6; Laws, 2012, ch. 520, § 8; Laws, 2013, 1st Ex Sess, ch. 1, § 9, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2012 amendment provided for two versions of the section. In the first version effective through June 30, 2022, inserted the (1)(a) designation and added (1)(b).

The 2013 amendment provided for two versions of the section, in both versions, in (3), inserted "except as otherwise provided in this section" in the first sentence and inserted the exception at the beginning of the last sentence; and added (7).

Cross References — Counties and municipalities authorized to enter into agreements with approved business enterprises under certain circumstances, see § 17-25-23.

Counties and municipalities authorized to enter into fee-in-lieu agreements with certain approved business enterprises, see § 17-25-23.

ATTORNEY GENERAL OPINIONS

Whether a proposal constitutes a "project" for purposes of qualifying for a "fee-in-lieu" of ad valorem tax under Miss. Code Ann. § 27-31-104 is a factual determination which must be made by the Mississippi Development Authority. A Project qualifying for fee-in-lieu is entitled to a single 10-year exemption based on the completion of the single qualifying project. Welch, February 2, 2007, A.G. Op. #07-00013, 2007 Miss. AG LEXIS 9.

§ 27-31-107. Applications for exemptions.

ATTORNEY GENERAL OPINIONS

An ad valorem property tax exemption granted to a factory or plant under Miss. Code Ann. § 27-31-101 may be canceled by a municipality or county a minimum of 12 months after manufacturing ceases. Ross, February 23, 2007, A.G. Op. #07-00080, 2007 Miss. AG LEXIS 28.

§ 27-31-111. Cessation of exempted operations.

ATTORNEY GENERAL OPINIONS

An ad valorem property tax exemption granted to a factory or plant under Miss. Code Ann. § 27-31-101 may be canceled by a municipality or county a minimum of 12 months after manufacturing ceases. Ross, February 23, 2007, A.G. Op. #07-00080, 2007 Miss. AG LEXIS 28.

§ 27-31-113. Cancellation of exemption obtained by fraud, etc.

ATTORNEY GENERAL OPINIONS

An ad valorem property tax exemption granted to a factory or plant under Miss. Code Ann. § 27-31-101 may be canceled by a municipality or county a minimum of 12 months after manufacturing ceases. Ross, February 23, 2007, A.G. Op. #07-00080, 2007 Miss. AG LEXIS 28.

§ 27-31-117. State taxes.

ATTORNEY GENERAL OPINIONS

An ad valorem property tax exemption granted to a factory or plant under Miss. Code Ann. § 27-31-101 may be canceled by a municipality or county a minimum of 12 months after manufacturing ceases. Ross, February 23, 2007, A.G. Op. #07-00080, 2007 Miss. AG LEXIS 28.

CHAPTER 33

Ad Valorem Taxes—Homestead Exemptions

ARTICLE 1.

GENERAL PROVISIONS.

§ 27-33-19. Home and homestead defined.

The word "home" or "homestead" whenever used in this article shall mean the dwelling, the essential outbuildings and improvements, and the eligible land assessed on the land roll actually occupied as the primary home of a family group, eligible title to which is owned by the head of the family, a bona fide resident of this state, and when the dwelling is separately assessed on the land roll for the year in which the application is made, subject to the

limitations and conditions contained in this article. And the meaning of the word is hereby extended to specifically include:

(a) One or more separate, bona fide dwellings and the land on which they are located, each occupied under eligible ownership rights by the widow or the widower, or the children of a deceased parent, each separate home being property or a portion of property owned by a deceased person whose estate has not been distributed or divided or vested in a person or persons for life. But in each case the property for which exemption is sought may not be more than the applicant's inherited portion, and must be accurately described on the application and the conditions explained in writing. But the heirs may elect to accept one (1) homestead for the estate. The home occupied by the surviving spouse as provided by the laws of this state shall be preferred over the homes claimed by the children, and the exemption to any other heir shall not exceed the remaining amount obtained by deducting the assessed value of the surviving spouse's portion from the assessed value of the whole, divided by the number of heirs other than the surviving spouse. Each heir claiming exemption shall meet the requirements as to occupancy, residence and head of a family, and no part of the undivided inherited lands shall be combined with other lands and included in a homestead exemption under this article except in the case of the surviving spouse.

(b) One or more separated dwellings and eligible land, not apartments, occupied each by a family group as a bona fide home, eligible title to which entire property is held jointly by purchase or otherwise by the heads of the families, and each joint owner shall be allowed exemption on the proportion of the total assessed value of all the property, equal to his fractional interest (except as otherwise provided in paragraph (r) of this section), provided no part of the jointly owned property shall be exempted to a joint owner who has been allowed an exemption on another home in the state.

(c) A dwelling and eligible lands owned jointly or severally by a husband and wife, if they are actually and legally living together. But if husband and wife are living apart, not divorced, as provided by paragraphs (c) and (d) of Section 27-33-13, jointly owned land shall not be included except that the dwelling occupied as a home at the time of separation shall be eligible if owned jointly or severally.

(d) The dwelling and eligible land on which it is located, owned and actually occupied as a home by a minister of the gospel or by a licensed school teacher actively engaged whose duties as such require them to be away from the home for the major part of each year, including January 1, provided it was eligible before such absence, and no income is derived therefrom, and no part of the dwelling claimed as a home is rented, leased or occupied by another family group, and when the home is eligible except for the temporary absence of the owner.

(e) The dwelling and the eligible land on which it is located, consisting of not more than four (4) apartments; provided (i) if one (1) apartment is actually occupied as a home by the owner the exemption shall be limited to one-fourth (¼) the exemption granted pursuant to this article, or (ii) if the

dwelling and land is owned by four (4) persons and the four (4) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than three (3) apartments, and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-third (⅓) the exemption granted pursuant to this article, or if the dwelling and land is owned by three (3) persons and the three (3) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than two (2) apartments and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-half (½) the exemption granted pursuant to this article, or if the dwelling and land is owned by two (2) persons and the two (2) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section.

(f) The dwelling and eligible land on which it is located, actually occupied as the bona fide home of a family group owned by the head of the family whereof five (5) and not more than six (6) rooms are rented to tenants or boarders, and where there are rented rooms and an apartment, the apartment shall be counted as three (3) rooms; provided the exemption shall be limited to one-half (½) the exemption granted pursuant to this article.

(g) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family used partly as a boarding house, or for the entertainment of paying guests, if the number of boarders or paying guests does not exceed eight (8).

(h) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family wherein activity of a business nature is carried on, but where the assessed value of the property associated with the business activity is less than one-fifth (⅕) of the total assessed value of the bona fide home; provided, however, that when the owner's full-time business is located in the bona fide home of the head of the family, such owner shall be limited to one-half (½) of the exemption granted pursuant to this article.

(i) The dwelling and the eligible land on which it is located and other eligible land even though ownership of and title to the dwelling and the land on which it is located has been conveyed to a housing authority for the purpose of obtaining the benefits of the Housing Authorities Law as authorized by Sections 43-33-1 through 43-33-53 or related laws.

(j) A dwelling and the eligible land on which it is located owned by a person who is physically or mentally unable to care for himself and confined in an institution for treatment shall be eligible notwithstanding the absence of the owner unless the home is excluded under other provisions of this

article. The exemption is available for a period of ten (10) years from the day of confinement.

(k) The dwelling and the eligible land on which it is located owned by two (2) or more persons of a group, as defined in paragraph (f) of Section 27-33-13, when two (2) or more of the group have eligible title, or if the group holds a life estate, a joint estate or an estate in common; provided the title of the several owners shall be of the same class.

(*l*) A dwelling and the eligible land on which it is located under a lease of sixty (60) years by the Pearl River Valley Water Supply District at the reservoir known as the "Ross Barnett Reservoir" actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(m) Units of a condominium constructed in accordance with Section 89-9-1 et seq., Mississippi Code of 1972, known as the "Mississippi Condominium Law," and actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(n) A dwelling and the eligible land on which it is located held under a lease of ten (10) years or more or for life, from a fraternal or benevolent organization and actually occupied as the home or homestead of a family or person as defined heretofore in this article. No such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(o) A dwelling being the bona fide home of a family group owned by the head of the family and located on land owned by a corporation incorporated more than fifty (50) years ago and in which the homeowner is a shareholder, and which corporation owns no land outside Monroe and Itawamba Counties. No family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(p) A dwelling and the eligible land on which it is located under a lease of five (5) years or more by the Mississippi-Yazoo Delta Levee Board actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article. The definition shall include all leases in existence that were entered into prior to July 1, 1992.

(q) A dwelling and the eligible land on which the spouse of a testator is granted the use of such dwelling for life or until the occurrence of certain contingencies and the children of such testator are granted a remainder

interest in the dwelling and eligible land. Such dwelling and eligible land will only qualify as a home or homestead if (i) the spouse of the testator would otherwise qualify as head of a family if the interest were a tenancy for life (life estate), and (ii) the dwelling and eligible land is actually occupied as the home of the spouse of the testator. The children of the testator shall be allowed to establish an additional homestead for purposes of this article.

(r) A dwelling and the eligible land actually occupied as the bona fide home of a family group. If a person has been granted use and possession of a home in a divorce decree, that individual is eligible for full exemption, regardless of whether the property is jointly owned.

(s) A dwelling being the bona fide home of a family group located on land owned by a corporation incorporated more than forty (40) years ago and in which the head of the family group is a shareholder, and which corporation owns no land outside Lee County, Mississippi. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(t) The floor or floors of a building used solely for the residence of a family group when the building is owned by the head of the family and another floor or floors of the building are used for business activity.

(u) A dwelling being the bona fide home of a family group located on land owned by an incorporated club and in which the head of the family group is a shareholder, and which incorporated club owns no land outside Union County, Mississippi; provided, the incorporated club pays all ad valorem taxes levied on the land upon which the dwelling is located. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(v) A dwelling and the eligible land on which it is located under a sublease for a period of twenty (20) years or more on land leased pursuant to Section 1 of Chapter 558, Laws of 2010, actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(w) The portion of a building that is listed on the National Register of Historic Places that is used solely for the residence of a family group when the building is owned by the head of the family and rooms in the building are rented to transient guests; however, not more than ten (10) rooms in the building may be rented to transient guests.

(x) A dwelling and the eligible land on which it is located under a lease or sublease of twenty-five (25) years or more actually occupied as the home or homestead of a family or person as defined in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article. This paragraph shall

not apply to a lease between a person who is physically or mentally unable to care for himself and the institution in which the person is confined.

SOURCES: Codes 1942, § 9723; Laws, 1940, ch. 127; Laws, 1942, ch. 189; Laws, 1946, ch, 261, § 9; Laws, 1970, ch. 303, § 1; Laws, 1971, ch. 481, § 2; Laws, 1982, ch. 406, § 2; Laws, 1984, ch. 453, § 10; Laws, 1991, ch. 602, § 1; Laws, 1992, ch. 477, § 2; Laws, 1994, ch. 561, § 4; Laws, 1996, ch. 431, § 1; Laws, 2000, ch. 615, § 1; Laws, 2001, ch. 483, § 2; Laws, 2004, ch. 504, § 1; Laws, 2006, ch. 557, § 1; Laws, 2007, ch. 533, § 4; Laws, 2007, ch. 564, § 5; Laws, 2010, ch. 558, § 5; Laws, 2011, ch. 480, § 34; Laws, 2013, ch. 409, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2011 amendment added (x).
The 2013 amendment added the last sentence in (x).

§ 27-33-49. Duties of the attorney general.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the state shall be the attorney for the commission and shall represent it in any proceedings before any court. In any hearing before the commission, where the services of an attorney are desired or needed, the Attorney General shall attend on behalf of the commission. The Attorney General shall construe any doubtful or conflicting provisions of this article, and his opinion shall be controlling on all officers.

SOURCES: Codes, 1942, § 9737; Laws, 1940, ch. 127; Laws, 1946, ch. 261, § 23; Laws, 2012, ch. 546, § 10, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment added the exception at the beginning.

§ 27-33-63. Additional restrictions, limitations and changes.

ATTORNEY GENERAL OPINIONS

A homestead exemption claimant who is a bona fide resident of Mississippi, who owns and is occupying a home legally assessed on the land roll, but is displaying a license plate from another state on a vehicle, should be removed from the homestead exemption roll until such time he or she submits proof of full compliance with the Mississippi road and bridge privilege tax laws. Schrimpshire, March 30, 2007, A.G. Op. #07-00162, 2007 Miss. AG LEXIS 65.

CHAPTER 35

Ad Valorem Taxes—Assessment

ARTICLE 1.

GENERAL PROVISIONS.

§ 27-35-3. Date establishing liability to taxation.

ATTORNEY GENERAL OPINIONS

An annexation is final and effective for all purposes 10 days after issuance of the decree by the chancery court, or 10 days after final determination of an appeal, except that citizens residing in an annexed area may not participate in future municipal elections as electors or as candidates, unless and until pre-clearance by the U.S. Department of Justice is obtained pursuant to Section 5 of the Voting Rights Act. Mallette, March 2, 2007, A.G. Op. #07-00096, 2007 Miss. AG LEXIS 72, modifying Rafferty, November 27, 2006, A.G. Op. #06-00598, 2006 Miss. AG LEXIS 428, as to the effective date of annexation for all purposes other than voting and candidacy.

§ 27-35-147. Changes of assessments on motion of board or other officer.

JUDICIAL DECISIONS

2. Construction and application.

Board of supervisors did not have the authority to reassess an owner's property after it approved the tax roll under Miss. Code Ann. § 27-35-147, as an incorrect valuation due to the owner's failure to comply with Miss. Code Ann. § 27-35-50(4)(d) was not an incorrect classification of its land, and a special valuation under § 27-35-50(d) was not an exemption. 3545 Mitchell Rd., LLC v. Bd. of Supervisors, 62 So. 3d 379 (Miss. 2011).

§ 27-35-155. Assessment of persons and property having escaped taxation.

ATTORNEY GENERAL OPINIONS

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

CHAPTER 38

Ad Valorem Taxes—Telecommunications Tax Reform

SEC.

§ 27-38-5. Certain providers of telecommunication services entitled to refund of ad valorem tax; when refund payments due; refund payments to be made from Telecommunications Ad Valorem Tax Reduction Fund; proportionate reduction of refunds in the event of insufficient monies in Fund; unpaid refunds to carry forward to succeeding taxable years; excess amounts in Fund to be transferred to Motor Vehicle Ad Valorem Tax Reduction Fund.

[Until July 1, 2014, this section shall read:]

(1) With respect to ad valorem taxes becoming due after January 1, 2001, every person providing telecommunications services subject to sales tax under paragraphs (e) and (f) of Section 27-65-19(1), Mississippi Code of 1972, and which operates in more than six (6) counties, shall be entitled to a refund from the State of Mississippi in an amount equal to fifty percent (50%) of the aggregate amount of the ad valorem tax paid by such person on Class IV property, as defined in Section 112, Mississippi Constitution of 1890, to local taxing districts.

(2) On or before March 15, 2001, and on or before March 15 of each year thereafter, the State Tax Commission shall pay all refunds to which telecommunications service providers are entitled under the provisions of subsection (1) of this section for ad valorem taxes that became due on or before the first day of February immediately preceding March 15.

(3) The payments made pursuant to subsection (2) of this section shall be paid by the State Tax Commission exclusively out of the Telecommunications Ad Valorem Tax Reduction Fund created pursuant to Section 27-38-7. To the extent that the amount contained in such fund does not equal or exceed the payments prescribed by this section, such payments shall be proportionately reduced by the amount of the shortfall; provided, however, that any reduction shall be carried forward and paid to the respective telecommunications service provider in any succeeding taxable year or years in which monies remain in the fund after payment of all refunds pursuant to subsection (2) of this section for such year. The State Tax Commission shall determine the amount of any reductions pursuant to this subsection.

(4) On or before April 15, 2001, and on or before April 15 of each year thereafter, amounts in the Telecommunications Ad Valorem Tax Reduction Fund, which are in excess of the amounts necessary to pay all refunds pursuant to subsection (2) of this section and all amounts carried forward pursuant to subsection (3) of this section shall be transferred into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

[From and after July 1, 2014, this section shall read:]

(1) With respect to ad valorem taxes becoming due after January 1, 2001, every person providing telecommunications services subject to sales tax under Section 27-65-19(1)(d), Mississippi Code of 1972, and which operates in more than six (6) counties, shall be entitled to a refund from the State of Mississippi in an amount equal to fifty percent (50%) of the aggregate amount of the ad valorem tax paid by such person on Class IV property, as defined in Section 112, Mississippi Constitution of 1890, to local taxing districts.

(2) On or before March 15, 2001, and on or before March 15 of each year thereafter, the Department of Revenue shall pay all refunds to which telecommunications service providers are entitled under the provisions of subsection (1) of this section for ad valorem taxes that became due on or before the first day of February immediately preceding March 15.

(3) The payments made pursuant to subsection (2) of this section shall be paid by the Department of Revenue exclusively out of the Telecommunications Ad Valorem Tax Reduction Fund created pursuant to Section 27-38-7. To the extent that the amount contained in such fund does not equal or exceed the payments prescribed by this section, such payments shall be proportionately reduced by the amount of the shortfall; provided, however, that any reduction shall be carried forward and paid to the respective telecommunications service provider in any succeeding taxable year or years in which monies remain in the fund after payment of all refunds pursuant to subsection (2) of this section for such year. The Department of Revenue shall determine the amount of any reductions pursuant to this subsection.

(4) On or before April 15, 2001, and on or before April 15 of each year thereafter, amounts in the Telecommunications Ad Valorem Tax Reduction Fund, which are in excess of the amounts necessary to pay all refunds pursuant to subsection (2) of this section and all amounts carried forward pursuant to subsection (3) of this section shall be transferred into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

SOURCES: Laws, 2000, ch. 303, § 3; Laws, 2013, ch. 537, § 4, eff from and after July 1, 2014.

Editor's Note — Laws of 2013, ch. 537, § 6, provides:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and

enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Amendment Notes — The 2013 amendment substituted "Section 27-65-19(1)(d)" for "paragraphs (e) and (f) of Section 27-65-19(1)" in (1); and substituted "Department of Revenue" for "State Tax Commission" in (2) and twice in (3).

CHAPTER 39

Ad Valorem Taxes—State and Local Levies

Article 2.

Advertisement of Proposed Ad Valorem Tax Increases.

Sec.

§ 27-39-203. Public hearings to consider budget and tax levies; form and content of advertisement of hearings.

(1) The governing body of all taxing entities shall hold a public hearing at which time the budget and tax levies for the upcoming fiscal year will be considered.

(2) The public hearing shall be advertised in accordance with the following procedures. The advertisement shall be no less than one-fourth (¼) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. It is the intent of the Legislature that the advertisement appears in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. It is further the intent of the Legislature that the newspaper selected be one of general interest and readership in the community, and not one of limited subject matter. The advertisement shall be run once each week for the two (2) weeks preceding the adoption of the final budget. The advertisement shall state that the taxing entity will meet on a certain day, time and place fixed in the advertisement, which shall be not less than seven (7) days after the day the first advertisement is published, for the purpose of hearing comments regarding the proposed budget and proposed tax levies. Any increase in the projected budget revenues or any increase in the millage rate over the current fiscal year shall be explained by the governing body giving the reasons for the proposed increase. A taxing entity collecting taxes in more than

one (1) county shall make the required advertisement by publication in each county where the taxing entity collects taxes.

(3) All hearings shall be open to the public. The governing body of the taxing entity shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(4) Each taxing entity shall notify the county or municipal governing body of the date, time and place of its public hearing. No taxing entity may schedule its hearing at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing authority may consolidate the required hearings into one (1) hearing. The county or municipal governing body shall resolve any conflicts in hearing dates and times after consultation with each affected taxing entity.

(5) If the proposed tax levies are not in excess of the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR THE UPCOMING FISCAL YEAR FOR — (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of $ _____ . (_____ percent) or $ _____ of such revenue is obtained through ad valorem taxes. For the next fiscal year, the proposed budget has total projected revenue of $_____ . Of that amount, (_____ percent) or $ _____, is proposed to be financed through a total ad valorem tax levy.

The decision to not increase the ad valorem tax millage rate for fiscal year (insert the year) above the current fiscal year's ad valorem tax millage rate means you will not pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property, unless the assessed value of your property has increased for fiscal year (insert the year).

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed budget and tax levies for fiscal year (insert the year) and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(6)(a) If the proposed tax levies for the upcoming fiscal year shall exceed the current fiscal year's certified tax rate, the advertisement shall be in the following form:

"NOTICE OF A TAX INCREASE AND A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR — (Name of the taxing entity)

The (name of the taxing entity) will hold a public hearing on a proposed ad valorem tax revenue increase for fiscal year (insert the year) and on its

proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of $ _____. (_____ percent) or $_____ of such revenue is obtained through ad valorem taxes. For next fiscal year, the proposed budget has total projected revenue of $_____ . Of that amount, (_____ percent) or $_____ is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the (name of the taxing entity) plans to increase your ad valorem tax millage rate by _____ mills from _____ mills to _____ mills. This increase means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(b) If an increase in the tax levy is necessary only because of an increased funding request made by a county district or any other cost which by law the county must fund and may not decrease in amount, then the notice required by this subsection shall be used and the county shall explain, in clear language in the notice, that the increase in the tax levy is necessary only because of the increased funding request of the county district or other cost incurred.

(7) After the hearing has been held in accordance with the above procedures, the governing body of the taxing entity may adopt a resolution levying a tax rate on classes of property designated by Section 112, Mississippi Constitution of 1890, as specified in its advertisement. If the resolution adopting the tax rate is not adopted on the day of the public hearing, the scheduled date, time and place for consideration and adoption of the resolution shall be announced at the public hearing and the governing body shall advertise the date, time and place of the proposed adoption of the resolution in the same manner as provided under subsection (2).

(8) Any governing body of a tax entity shall be prohibited from expending any funds for the applicable fiscal year until it has strictly complied with the advertisement and public hearing requirements set forth in this section.

SOURCES: Laws, 1994, ch. 414, § 2; Laws, 1995, ch. 481 § 1; Laws, 1999, ch. 499, § 1; Laws, 2012, ch. 352, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment rewrote the section.

§ 27-39-205. Repealed.

Repealed by Laws of 2012, ch. 352, § 4, effective July 1, 2012.

§ 27-39-205. [Laws, 1994, ch. 414, § 3; Laws, 1995, ch. 481, § 2; Laws, 1999, ch. 499, § 2, eff from and after passage (approved Apr. 14, 1999.)]

Editor's Note — Former § 27-39-205 provided the procedures prerequisite to increasing certain certified tax rates and the form and content of the requisite public notice. For present similar provisions, see § 27-39-203.

§ 27-39-207. Advertisement of intention to increase ad valorem tax by school district; form and content of public notice; hearings.

(1) Unless the increased revenue in a budget is derived solely from the expansion of a school district's ad valorem tax base, a school district shall not budget an increase in an ad valorem tax effort in dollars for support of the school district unless it first advertises its intention to do so at the same time that it advertises its intention to fix its budget for the next fiscal year.

(2) A request for an increase in ad valorem tax effort in dollars for the support of the school district pursuant to Sections 37-57-105 and 37-57-107 shall not be levied until an order has been approved by the school board of the school district in accordance with the following procedure:

(a) The school board of the school district shall advertise its intent to increase its ad valorem tax effort in dollars in a newspaper of general circulation in the county. The advertisement shall be no less than one-fourth (¼) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The advertisement shall not be placed in any portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. The newspaper selected shall be one of general interest, readership and circulation in all areas of the community. The advertisement shall be published once each week for the two-week period preceding the adoption of the final budget. The advertisement shall provide that the school board of the school district will meet on a certain day, date, time and place fixed in the advertisement, which shall be no less than seven (7) days after the day the first advertisement is published. The meeting on the proposed increase may coincide with the hearing on the proposed budget of the school board of the school district.

(b) Except as provided for in subsection (1) of this section, if a school district is requesting an increase in ad valorem tax effort in dollars pursuant to Sections 37-57-105 and 37-57-107, it shall be in the following form:

"NOTICE OF PROPOSED AD VALOREM TAX EFFORT
(Name of the school district)

The (name of the school district) will hold a public hearing on its proposed school district budget for fiscal year (insert the year) on (date and time) at (meeting place). At this meeting, a proposed ad valorem tax effort will be considered.

The (name of the school district) is now operating with a projected total budget revenue of $_____ . Of that amount, _____ percent or

$ _____ of such revenue is obtained through ad valorem taxes. For next fiscal year, the proposed budget has total projected revenue of $ _____. Of that amount, (_____ percent) or $ _____ is proposed to be financed through a total ad valorem tax levy.

For the next fiscal year, the proposed increase in ad valorem tax effort by (name of the school district) may result in an increase in the ad valorem tax millage rate. Ad valorem taxes are paid on homes, automobile tags, business fixtures and equipment, and rental real property.

Any citizen of (name of the school district) is invited to attend this public hearing on the proposed ad valorem tax effort, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken."

(3) The school board of the school district, after the hearing has been held in accordance with the above procedures, may adopt an order requesting the levying of an ad valorem tax effort in dollars in excess of the certified tax rate. If such order is not adopted on the day of the public hearing, the scheduled date, time and place for consideration and adoption of the order shall be announced at the public hearing.

(4) All hearings shall be open to the public. The school board of the school district shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits and offer tangible evidence.

(5) Each school board of a school district shall notify the taxing entity of the date, time and place of its public hearing. No school board of a school district may schedule its hearing at the same time as another overlapping school district in the same county.

SOURCES: Laws, 1994, ch. 414, § 4; Laws, 1995, ch. 481, § 3; Laws, 1999, ch. 499, § 3; Laws, 2011, ch. 490, § 1, eff from and after passage (approved Apr. 6, 2011.)

Amendment Notes — The 2011 amendment in (2), inserted "increase in" preceding "ad valorem tax effort in dollars for the support of the school district" and deleted "in excess of the certified tax rate" thereafter; substituted "its intent to increase its ad valorem tax effort in dollars in a newspaper" for "its intent to exceed the certified tax rate in a newspaper" in the first sentence of (2)(a);and in (2)(b), rewrote the introductory paragraph, and in the notice, deleted "increase" following "proposed ad valorem tax effort" in the first paragraph, added "of that amount" at the beginning of the second sentence of the second paragraph, rewrote and combined the former third and fourth paragraphs into the present third paragraph, and substituted "ad valorem tax effort" for "ad valorem tax increase" in the last paragraph.

ARTICLE 3.

LOCAL LEVIES.

SEC.

§ 27-39-317. County ad valorem taxes; time and manner of levy.

The board of supervisors of each county shall, at its regular meeting in September of each year, levy the county ad valorem taxes for the fiscal year, and shall, by order, fix the tax rate, or levy, for the county, for the road districts, if any, and for the school districts, if any, and for any other taxing districts; and the rates, or levies, for the county and for any district shall be expressed in mills or a decimal fraction of a mill. Said tax rates, or levies, shall determine the ad valorem taxes to be collected upon each dollar of valuation, upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., for county taxes; and upon each dollar of valuation for the respective districts, as shown upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq.; except as to such values as shall be exempt, in whole or in part, from certain tax rates or levies. If the rate or levy for the county is an increase from the previous fiscal year, then the proposed rate or levy shall be advertised in accordance with Section 27-39-203. If the board of supervisors of any county shall not levy the county taxes and the district taxes at its regular September meeting, the board shall levy the same on or before September 15 at an adjourned or special meeting, or thereafter, provided, however, that if such levy be not made on or before the fifteenth day of September then the tax collector or Department of Revenue may issue road and bridge privilege tax license plates for motor vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., without collecting or requiring proof of payment of county ad valorem taxes, and may continue to so issue such plates until such levy is duly certified to him, and for twenty-four (24) hours thereafter.

Notwithstanding the requirements of this section, in the event the Department of Revenue orders the county to make an adjustment to the tax roll pursuant to Section 27-35-113, the county shall have a period of thirty (30) days from the date of the commission's final determination to adjust the millage in order to collect the same dollar amount of taxes as originally levied by the board.

In making the levy of taxes, the board of supervisors shall specify, in its order, the levy for each purpose, as follows:

(a) For general county purposes (current expense and maintenance taxes), as authorized by Section 27-39-303.

(b) For roads and bridges, as authorized by Section 27-39-305.

(c) For schools, including the countywide minimum education program levy and the levy for each school district including special municipal separate school districts, but not including other municipal separate school districts, and for an agricultural high school, county high school or junior college (current expense and maintenance taxes), as authorized by Chapter 57, Title 37, Mississippi Code of 1972, and any other applicable statute. The levy for schools shall apply to the assessed value of property in the respective school districts, including special municipal separate school districts, but not including other municipal separate school districts, and a distinct and separate levy shall be made for each school district, and the purpose for each levy shall be stated.

(d) For road bonds and the interest thereon, separately for countywide bonds and for the bonds of each road district.

(e) For school bonds and the interest thereon, separately for countywide bonds and for the bonds of each school district.

(f) For countywide bonds, and the interest thereon, other than for road bonds and school bonds.

(g) For loans, notes or any other obligation, and the interest thereon, if permitted by the law.

(h) For any other purpose for which a levy is lawfully made.

The order shall state all of the purposes for which the general county levy is made, using the administrative items suggested by the State Department of Audit of Mississippi under the county budget law in its uniform system of accounts for counties, but the rate or levy for any item or purpose need not be shown; and if a countywide levy is made for any general or special purpose under the provisions of any law other than Section 27-39-303, each such levy shall be separately stated.

During the month of February of each year, if the order or resolution of the board of trustees of any school district of said county or partly in said county, is filed with it requesting the levying of ad valorem taxes for the support and maintenance of such school district for the following fiscal year, then the board of supervisors of every such county in the state shall notify, in writing, within thirty (30) days, the county superintendent of education of such county, the levy or levies it intends to make for the support and maintenance of such school districts of such county at its regular meeting in September following, and the county superintendent of education and the trustees of all such school districts shall be authorized to use such expressed intention of the board of supervisors in computing the support and maintenance budget or budgets of such school district or districts for the ensuing fiscal school year.

SOURCES: Codes, 1857, ch. 59, arts. 24, 25; 1871, §§ 1372, 1373; 1880 §§ 2153, 2154; 1892, § 314; 1906, § 335; Hemingway's 1917, § 3708; 1930, § 3227; 1942, § 9889; Laws, 1920, ch. 253; Laws, 1938, Ex. ch. 28; Laws, 1940, ch. 251; Laws, 1956, ch. 296, § 18; Laws, 1958, ch. 549, § 8; Laws, 1962, ch. 270; Laws, 1978,

ch. 354, § ; Laws, 1983, ch. 471, § 17; Laws, 1990, ch. 498, § 6; Laws, 1994, ch. 414, § 8; Laws, 2012, ch. 352, § 3, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment substituted "Section 27-39-203" for "Sections 27-39-203 and 27-39-205" at the end of the third sentence of the first paragraph; and substituted "Department of Revenue" for "State Tax Commission" throughout the section.

§ 27-39-332. Power and authority of county to levy tax to support Mississippi Burn Care Fund; power and authority of county to levy tax to support the construction and/or operation of Burn Center Lodge.

[Until July 1, 2016, this section shall read as follows:]

(1) The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Department of Health to support the Mississippi Burn Care Fund.

(2)(a) The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Burn Foundation to support the construction and/or operation of the Burn Center Lodge for families of victims being treated at the Joseph M. Still Burn and Reconstructive Center, Inc., at Crossgates River Oaks Hospital.

(b)(i) The Mississippi Burn Foundation shall hire an independent auditor, who uses generally accepted accounting principles and auditing standards, to perform an annual audit on the financial condition of the association and to create a report containing the results of the audit. The auditor's report shall be submitted to the Mississippi Commissioner of Insurance within one hundred eighty (180) days of the end of the association's fiscal year, and shall be published in accordance with the Mississippi Public Records Act of 1983.

(ii) No county board of supervisors shall donate any funds to the Mississippi Burn Foundation in any year in which the association fails to submit the annual audit report, required by this paragraph (b), to the Commissioner of Insurance. The Mississippi Burn Foundation shall be prohibited from receiving any funds until the annual audit report, required by this paragraph (b), is submitted to the Commissioner of Insurance.

[From and after July 1, 2016, this section shall read as follows:]

The board of supervisors of any county is authorized and empowered, in its discretion, to levy a tax not to exceed one (1) mill per annum upon all taxable property of the county, which shall be provided directly to the Mississippi Department of Health, or the University of Mississippi Medical Center after

the Mississippi Burn Center is operational, to support the Mississippi Burn Care Fund.

SOURCES: Laws, 1989, ch. 445, § 1; Laws, 2005, 2nd Ex Sess, ch. 47, § 7; Laws, 2007, ch. 569, § 7; Laws, 2011, ch. 502, § 1; Laws, 2012, ch. 371, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2011 amendment provided for two versions of the section, in the version effective until July 1, 2016, deleted "or the University of Mississippi Medical Center after the Mississippi Burn Center is operational" preceding "to support the Mississippi Burn Care Fund" near the end of (1); and added (2).

The 2012 amendment provided two versions of the section, in the first version effective until July 1, 2016, substituted "Burn Foundation" for "Firefighters Memorial Burn Association, Inc.," following "Mississippi" throughout the section.

Cross References — Mississippi Public Records Act of 1983, see §§ 25-61-1 et seq.

CHAPTER 41

Ad Valorem Taxes—Collection

GENERAL PROVISIONS

§ 27-41-55. Sales of land for taxes; advertisement.

ATTORNEY GENERAL OPINIONS

A town may treat expenses for cleaning property either as a civil debt or as a lien on the property. A lien is to be treated exactly as a lien for delinquent taxes and thus remains viable through any foreclosure proceedings. In a sale to recover the lien amount, a town must follow the procedures for notice, time of sale, and the like pursuant to Miss. Code Ann. § 27-41-55 et seq. Maxey, March 2, 2007, A.G. Op. #07-00088, 2007 Miss. AG LEXIS 83.

§ 27-41-59. Sales of land for taxes; conduct of sale; offering property for sale for second time under certain circumstances; conduct of second sale [Subsection (2) repealed effective September 1, 2013].

(1) Except as otherwise provided in Section 27-41-2, on the first Monday of April, if the tax collector has exercised his option to hold a tax sale on that day, and on the last Monday of August, as the case may be, if the taxes remain

unpaid, the tax collector shall proceed to sell, for the payment of taxes then remaining due and unpaid, together with all fees, penalties and damages provided by law, the land or so much and such parts of the land of each delinquent taxpayer to the highest and best bidder for cash as will pay the amount of taxes due by him and all costs and charges. He shall first offer one hundred sixty (160) acres or a smaller separately described subdivision, if the land is less than one hundred sixty (160) acres. If the first parcel so offered does not produce the amount due, then he shall offer as an entirety all the land constituting one (1) tract. Each separate assessment as it appears and is described on the assessment roll shall constitute one (1) tract for the purpose of sale for taxes, notwithstanding the fact that the person who is the owner thereof, or to whom it is assessed, is the owner of or is assessed with other lands, the whole of which constitutes one (1) entire tract but appears on the assessment roll in separate subdivisions. Upon offering the land of any delinquent taxpayer constituting one (1) tract, if no person will bid for it, the whole amount of taxes and all costs incident to the sale, the tax collector shall strike it off to the state. The sale shall be continued from day to day within the hours from 8:30 o'clock in the forenoon and 4:30 o'clock in the afternoon until completed; but neither a failure to advertise, nor error in the advertisement, nor error in conducting the sale, shall invalidate a sale at the proper time and place for taxes of any land on which the taxes were due and not paid, but a sale made at the wrong time or at the wrong place shall be void. Any person sustaining damages by reason of any failure or error by the tax collector may recover damages therefor on his official bond.

(2) If property in a public improvement district established under Section 19-31-1 et seq. fails to receive a bid and is struck off to the state under this section, the tax collector, upon approval of the Secretary of State and the governing bodies of the county or city in which the public improvement district is located, may, prior to the expiration of the redemption period, offer the property for sale for a second time. The second sale shall be conducted in the manner prescribed by law for the sale of land for taxes not made at the time appointed by law for such sales under Section 27-41-65, and the tax collector shall include all years for which taxes are delinquent on the property. The property may be offered as a whole or subdivided for purposes of the second sale. If there is no purchaser at the second sale, then the property, if not redeemed, shall mature to the state at the expiration of the redemption period as though no second sale had occurred. If the property is purchased at the second sale, the property may be redeemed at any time within two (2) years after the date of the second sale by the persons and in the manner as provided in Section 27-45-3. This subsection (2) shall be repealed on September 1, 2013.

SOURCES: Codes, 1942, § 9923; Laws, 1934, ch. 188; Laws, 1938, Ex. ch. 69; Laws, 1964, ch. 523; Laws, 1985, ch. 425, § 5; Laws, 1993, ch. 503, § 1; Laws, 1993, ch. 540, § 7; Laws, 1994, ch. 340, § 2; Laws, 2011, ch. 429, § 1, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment added (2).

ATTORNEY GENERAL OPINIONS

There is no authority for a county to pay delinquent land taxes or to bid on or purchase real property at a county tax sale. Hudson, February 9, 2007, A.G. Op. #07-00038, 2007 Miss. AG LEXIS 19.

§ 27-41-65. Sales of land for taxes; sale of land not sold at regular time.

Cross References — Second sale of certain property to be conducted in the manner prescribed under this section, see § 27-41-59.

§ 27-41-79. Sales of land for taxes; certified lists of lands sold.

The tax collector shall on or before the second Monday of May and on or before the second Monday of October of each year, transmit to the clerk of the chancery court of the county separate certified lists of the lands struck off by him to the state and that sold to individuals, specifying to whom assessed, the date of sale, the amount of taxes for which sale was made, and each item of cost incident thereto, and where sold to individuals, the name of the purchaser, such sale to be separately recorded by the clerk in a book kept by him for that purpose. Except as otherwise provided in Section 27-41-49, all such lists shall vest in the state or in the individual purchaser thereof a perfect title to the land sold for taxes, but without the right of possession for the period of and subject to the right of redemption; but a failure to transmit or record a list or a defective list shall not affect or render the title void. If the tax collector or clerk shall fail to perform the duties herein prescribed, he shall be liable to the party injured by such default in the penal sum of Twenty-five Dollars ($25.00), and also on his official bond for the actual damage sustained. The lists hereinabove provided shall, when filed with the clerk, be notice to all persons in the same manner as are deeds when filed for record. The lists of lands hereinabove referred to shall be filed by the tax collector in May for sales made in April and in October for sales made in September, respectively.

SOURCES: Codes, 1942, § 9935; Laws, 1934, ch. 188; Laws, 1968, ch. 361, § 43; Laws, 2011, ch. 429, § 2, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment added "Except as otherwise provided in Section 27-41-49" at the beginning of the second sentence.

§ 27-41-81. Sales of land for taxes; certified lists of lands sold.

The tax collector shall on or before the first Monday of June transmit to the clerk of the chancery court of the county separate certified lists of the lands struck off by him to the state and that sold to individuals, specifying to whom assessed, the day of the sale, the amount of taxes for which the sale was made and each item of cost incidental thereto, and, where sold to individuals, the name of the purchaser, to be separately recorded by the clerk in books kept by him for that purpose. Except as otherwise provided in Section 27-41-59, the

lists shall vest in the state or the individual purchaser thereof a perfect title to the land sold for taxes, but without the right of possession and subject to the right of redemption; but a failure to transmit or record a list, or a defective list, shall not affect or render the title void. If the tax collector or clerk shall fail to perform the duties herein prescribed, he shall be liable to the party injured by such default in the penal sum of Twenty-five Dollars ($25.00), and also on his bond for the actual damages sustained.

The list hereinabove provided shall, when filed with the clerk, be notice to all persons in the same manner as are deeds when filed for record.

SOURCES: Codes, Hutchinson's 1848, ch. 8, art. 17 (26); 1857, ch. 3, art. 36; 1871, § 1698; 1880, § 523; 1892, §§ 3815, 3818; 1906, §§ 2933, 4333; Hemingway's 1917, §§ 5268, 6967; 1930, § 3256; 1942, § 9936; Laws, 1912, ch. 230; Laws, 1922, ch. 241; Laws, 1934, ch. 200; Laws, 1935, Ex. ch. 39; Laws, 1936, ch. 307; Laws, 1968, ch. 361, § 44 eff from and after January 1, 1972; Laws, 2011, ch. 429, § 3, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment added "Except as otherwise provided in Section 27-41-59" at the beginning of the second sentence; and made a minor stylistic change.

AD VALOREM TAXES UPON PERSONAL PROPERTY

SEC.

§ 27-41-103. Collection of taxes on personal property; issuance of warrant to sheriff for seizure and sale of property generally; employment of certain off-duty deputy sheriffs to seize and sell personal property.

The tax collector may issue a warrant under his official seal directed to the sheriff of any county of the state commanding him to immediately seize and sell the real and personal property of the person owning the property found within the county in which the judgment is enrolled for the payment of the amount of ad valorem tax on personal property as set forth in the warrant, and the cost of executing the warrant. Any such property sold shall be sold by sheriff's bill of sale.

As an alternative to the sheriff seizing and selling the personal property of the person, the tax collector or a deputy tax collector may employ an off-duty

deputy sheriff, certified by the Board on Law Enforcement Officer Standards and Training, to exercise the same authority as the sheriff under Sections 27-41-101 through 27-41-109 and Sections 13-3-161 through 13-3-173 with regard to personal property, if (a) the sheriff of the county has agreed in writing that the tax collector may employ such deputy, and (b) the board of supervisors has approved the agreement between the tax collector and the sheriff.

SOURCES: Laws, 1995, ch. 435, § 2; Laws, 1999, ch. 556, § 34; Laws, 2011, ch. 418, § 1, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment added the second paragraph.

Cross References — Compensation of off-duty deputy sheriff employed to seize, sell personal property, see § 27-41-107.

§ 27-41-105. Collection of taxes on personal property; issuance of jeopardy warrant to sheriff or off-duty deputy sheriff; proceedings by circuit court clerk upon receipt of notice of tax lien; proceedings upon jeopardy warrant.

If the tax collector has cause to believe and believes that the collection of ad valorem taxes on personal property due by any taxpayer will be jeopardized by delay, he may immediately file with the circuit clerk a notice of tax lien for ad valorem taxes on personal property and issue a jeopardy warrant under official seal directed to the sheriff or off-duty deputy sheriff employed by the county tax collector of any county of this state.

The circuit clerk shall proceed as provided in Section 27-41-101 upon receiving a copy of the notice of tax lien from the tax collector. Any tax determined to be due under a jeopardy assessment shall be a debt due to the county, and, when thus enrolled upon the judgment roll of the county, shall be the equivalent of any enrolled judgment of a court of record, and shall constitute a lien on all property and rights to property of the judgment debtor. The sheriff, upon receipt of the jeopardy warrant, shall immediately proceed in accordance with Section 27-41-107.

SOURCES: Laws, 1995, ch. 435, § 3; Laws, 2011, ch. 418, § 2, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment inserted "or off-duty deputy sheriff employed by the county tax collector" preceding "of any county of this state" near the end of the first paragraph.

Cross References — Employment of certain off-duty deputy sheriffs to seize and sell personal property, see § 27-41-103.

§ 27-41-107. Collection of taxes on personal property; execution of warrant by sheriff or off-duty deputy sheriff; compensation of sheriff and off-duty deputy sheriff; manner of disposition of property.

The sheriff or off-duty deputy sheriff employed by the county tax collector, upon receipt of a warrant or a jeopardy warrant, shall immediately seize any property of the taxpayer named in the warrant, in all respects, with like effect, and in the manner prescribed by law with respect to executions of judgments, and he shall execute such warrant and return it to the tax collector, and pay to him the money collected by virtue thereof by the date specified therein, but not to exceed sixty (60) days.

The sheriff shall be entitled to the fees for his services in the same amount, and to be collected in like manner, as provided by Section 25-7-19, Mississippi Code of 1972, for like services under a writ of execution. Provided, however, that the minimum total of all such fees shall be Ten Dollars ($10.00). The off-duty deputy sheriff employed by the county tax collector shall be compensated in the manner agreed to by the county tax collector when the officer was hired.

Real property shall be disposed of according to Section 13-3-163, Mississippi Code of 1972, and personal property shall be disposed of according to Section 13-3-165, Mississippi Code of 1972. However, perishable personal property may be disposed of as provided by Section 13-3-167, Mississippi Code of 1972.

SOURCES: Laws, 1995, ch. 435, § 4; Laws, 2011, ch. 418, § 3, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment inserted "or off-duty deputy sheriff employed by the county tax collector" near the beginning of the first paragraph; and added the last sentence of the second paragraph.

Cross References — Employment of certain off-duty deputy sheriffs to seize and sell personal property, see § 27-41-103.

§ 27-41-109. Collection of taxes on personal property; procedure where proceeds of sale of property not sufficient to satisfy claim for taxes.

Whenever any property, personal or real, which is seized and sold by virtue of Sections 27-41-101 through 27-41-109, is not sufficient to satisfy the claim of the county for which distraint or seizure is made, the tax collector may, thereafter, and as often as the same may be necessary, issue alias warrants or have issued alias writs of execution authorizing the sheriff or an off-duty deputy sheriff employed by the county tax collector to proceed to seize and sell in like manner any other property liable to seizure of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

SOURCES: Laws, 1995, ch. 435, § 5; Laws, 2011, ch. 418, § 4, eff from and after July 1, 2011.

Amendment Notes — The 2011 amendment inserted "or an off-duty deputy sheriff employed by the county tax collector" following "authorizing the sheriff."

Cross References — Employment of certain off-duty deputy sheriffs to seize and sell personal property, see § 27-41-103.

CHAPTER 43

Ad Valorem Taxes—Notice of Tax Sale to Owners and Lienors

SEC.
27-43-3. Notice to owners; service of notice; fees.

§ 27-43-1. Notice to owners.

JUDICIAL DECISIONS

2. Clerk's failure to give prescribed notice.

Summary judgment quieting title in a purchaser was improper, as a city was entitled to notice of the expiration of the right of redemption before a tax sale pursuant to Miss. Code Ann. § 27-43-1; it had a reversionary interest in the property that was stated plainly on the face of a quitclaim deed, and as it did not receive such notice, the tax sale was void. City of Jackson v. Rebuild Am., Inc., 77 So. 3d 1105 (Miss. Ct. App. 2011), writ of certiorari denied en banc by 78 So. 3d 906, 2012 Miss. LEXIS 27 (Miss. 2012).

§ 27-43-3. Notice to owners; service of notice; fees.

The clerk shall issue the notice to the sheriff of the county of the reputed owner's residence, if he is a resident of the State of Mississippi, and the sheriff shall be required to serve notice as follows:

(a) Upon the reputed owner personally, if he can be found in the county after diligent search and inquiry, by handing him a true copy of the notice;

(b) If the reputed owner cannot be found in the county after diligent search and inquiry, then by leaving a true copy of the notice at his usual place of abode with the spouse of the reputed owner or some other person who lives at his usual place of abode above the age of sixteen (16) years, and willing to receive the copy of the notice; or

(c) If the reputed owner cannot be found after diligent search and inquiry, and if no person above the age of sixteen (16) years who lives at his usual place of abode can be found at his usual place of abode who is willing to receive the copy of the notice, then by posting a true copy of the notice on a door of the reputed owner's usual place of abode.

The sheriff shall make his return to the chancery clerk issuing the notice. The clerk shall also mail a copy of the notice to the reputed owner at his usual street address, if it can be ascertained after diligent search and inquiry, or to his post-office address if only that can be ascertained, and he shall note such action on the tax sales record. The clerk shall also be required to publish the

name and address of the reputed owner of the property and the legal description of the property in a public newspaper of the county in which the land is located, or if no newspaper is published as such, then in a newspaper having a general circulation in the county. The publication shall be made at least forty-five (45) days prior to the expiration of the redemption period.

If the reputed owner is a nonresident of the State of Mississippi, then the clerk shall mail a copy of the notice to the reputed owner in the same manner as set out in this section for notice to a resident of the State of Mississippi, except that notice served by the sheriff shall not be required.

Notice by mail shall be by registered or certified mail. In the event the notice by mail is returned undelivered and the notice as required in this section to be served by the sheriff is returned not found, then the clerk shall make further search and inquiry to ascertain the reputed owner's street and post-office address. If the reputed owner's street or post-office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as set out in this section. If notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify in the affidavit the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the office of the clerk and that action shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post-office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the office of the clerk and that action shall be noted on the tax sale record.

For examining the records to ascertain the record owner of the property, the clerk shall be allowed a fee of Fifty Dollars ($50.00); for issuing the notice the clerk shall be allowed a fee of Two Dollars ($2.00) and, for mailing the notice and noting that action on the tax sales record, a fee of One Dollar ($1.00); and for serving the notice, the sheriff shall be allowed a fee of Thirty-five Dollars ($35.00). For issuing a second notice, the clerk shall be allowed a fee of Five Dollars ($5.00) and, for mailing the notice and noting that action on the tax sales record, a fee of Two Dollars and Fifty Cents ($2.50), and for serving the second notice, the sheriff shall be allowed a fee of Thirty-five Dollars ($35.00). The clerk shall also be allowed the actual cost of publication. The fees and cost shall be taxed against the owner of the land if the land is redeemed, and if not redeemed, then the fees are to be taxed as part of the cost against the purchaser. The failure of the landowner to actually receive the notice herein required shall not render the title void, provided the clerk and sheriff have complied with the duties prescribed for them in this section.

Should the clerk inadvertently fail to send notice as prescribed in this section, then the sale shall be void and the clerk shall not be liable to the purchaser or owner upon refund of all purchase money paid.

SOURCES: Codes, 1892, § 3818; 1906, § 4333; Hemingway's 1917, § 6967; 1930, § 3258; 1942, § 9942; Laws, 1922, ch. 241; Laws, 1968, ch. 514, § 1; Laws, 1975, ch. 517, § 2; Laws, 1981, ch. 375, § 1; Laws, 1995, ch. 468, § 12; Laws, 2007, ch. 364, § 1; Laws, 2013, ch. 365, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (a), (b) and (c); substituted "Thirty-five Dollars ($35.00)" for "Four Dollars ($4.00)" at the end of the first and second sentences in the fourth paragraph following (c); deleted "personal" preceding "notice" and made minor stylistic changes throughout the section.

JUDICIAL DECISIONS

2. Failure of clerk to give prescribed notice.
3. Sufficiency of affidavit.
4. Failure to Serve Personally.

2. Failure of clerk to give prescribed notice.

In a grantee's action against a chancery clerk and a county sheriff to recover damages for their failure to strictly comply with the notice requirements of Miss. Code Ann. § 27-43-3, the trial court correctly held that whether the alleged conduct was "inadvertent" was irrelevant to whether the grantee's claims were precluded by the doctrine of caveat emptor; instead, the relevant question is whether there was a statutory remedy against the chancery clerk or the sheriff because recovery was otherwise barred by caveat emptor, and Miss. Code Ann. § 27-43-3 did not create one. Rebuild Am., Inc. v. Johnson, 99 So. 3d 1154 (Miss. Ct. App. 2010).

Trial court did not err in dismissing a grantee's action against a chancery clerk and a county sheriff to recover damages for their failure to strictly comply with the notice requirements of Miss. Code Ann. § 27-43-3 because the grantee failed to identify any statutory remedy allowing it to recover against the chancery clerk and the sheriff; no remedy exists to the purchaser in an invalid tax sale unless a remedy is specifically created by statute, and that § 27-43-3 creates an exception to liability does not create liability in the absence of the exception. Rebuild Am., Inc. v. Johnson, 99 So. 3d 1154 (Miss. Ct. App. 2010).

Chancellor did not err in finding that the chancery clerk failed to comply with the notice procedure of a tax sale pursuant to Miss. Code Ann. § 27-43-3 because leaving a copy of the notice attached to an outer door of a structure on the subject property was insufficient to satisfy the personal service requirement of § 27-43-3, and the record contained only a single affidavit, which was unsworn, concerning a single search and inquiry; under a strict reading of § 27-43-3, the chancery clerk's affidavit cannot be a substitute for personal service where notice by mail was completed. Rebuild Am., Inc. v. Estate of Wright, 27 So. 3d 1202 (Miss. Ct. App. 2010).

3. Sufficiency of affidavit.

Chancellor erred in granting summary judgment in favor of the purchaser of a property at a tax sale when the owner challenged the sale; the tax sale was void for failure to comply with Miss. Code Ann. § 27-43-3 in that an affidavit filed by a deputy chancery clerk was neither sworn to or notarized and thus, it was merely a piece of pater with the word "affidavit" as its title. Johnson v. Ferguson, 58 So. 3d 711 (Miss. Ct. App. 2011).

4. Failure to Serve Personally.

Tax deeds were invalid because the former property owners had been served with notice by publication of the end of the redemption period but had not been served personally by the sheriff, as required by Miss. Code Ann. § 27-43-3 (2002). However, the tax sale purchaser's successor remained entitled to statutory damages under Miss. Code Ann. § 27-45-3 (Rev. 2006). Rebuild Am., Inc. v. McGee, 49 So. 3d 156 (Miss. Ct. App. 2010).

§ 27-43-5. Notice to lienors.

JUDICIAL DECISIONS

2. Construction and application, generally.

Tax sale was void under Miss. Code Ann. § 27-43-11 as to the holder of a deed of trust where a chancery clerk failed to comply with the notice requirements of Miss. Code Ann. § 27-43-5; the notice failed to identify the holder's lien by book, page, and date. Wachovia Bank, N.A. v. Rebuild Am., Inc., 56 So. 3d 586 (Miss. Ct. App. 2011).

§ 27-43-11. Liens; fees of clerk; failure to give notice.

JUDICIAL DECISIONS

2. Construction and application.

Tax sale was void under Miss. Code Ann. § 27-43-11 as to the holder of a deed of trust where a chancery clerk failed to comply with the notice requirements of Miss. Code Ann. § 27-43-5; the notice failed to identify the holder's lien by book, page, and date. Wachovia Bank, N.A. v. Rebuild Am., Inc., 56 So. 3d 586 (Miss. Ct. App. 2011).

CHAPTER 45

Ad Valorem Taxes—Redemption of Land Sold for Taxes

§ 27-45-3. Persons who may redeem land.

JUDICIAL DECISIONS

1. In general.

Tax deeds were invalid because the former property owners had been served with notice by publication of the end of the redemption period but had not been served personally by the sheriff, as required by Miss. Code Ann. § 27-43-3 (2002). However, the tax sale purchaser's successor remained entitled to statutory damages under Miss. Code Ann. § 27-45-3 (Rev. 2006). Rebuild Am., Inc. v. McGee, 49 So. 3d 156 (Miss. Ct. App. 2010).

Chancellor erred in failing to award damages and interest to an owner in its quiet title action pursuant to Miss. Code Ann. §§ 27-45-3 and 27-45-27 because the issue was properly submitted to the chancery court in the owner's initial complaint, but the chancellor's final judgment did not address whether the owner would be entitled to damages; the chancellor should have addressed the issue before entering a final judgment. Rebuild Am., Inc. v. Estate of Wright, 27 So. 3d 1202 (Miss. Ct. App. 2010).

§ 27-45-23. Conveyances to purchasers at tax sales.

JUDICIAL DECISIONS

1. In general.

Landowner's action for ejectment was not barred by res judicata because not only was the landowner not made a party to a prior action that vested perfect title in the disputed party to a developer's predecessor in title, she clearly did not receive proper notice of it as required by Miss.

Code Ann. ' 27-45-23; because the landowner submitted ample evidence that her property had never been the subject of delinquent taxes, the strip of land was not liable to sale for non-payment of taxes. Delta Hous. Dev. Corp. v. Johnson, 48 So. 3d 573 (Miss. Ct. App. 2010), writ of certiorari denied en banc by 49 So. 3d 1139, 2010 Miss. LEXIS 628 (Miss. 2010).

CHAPTER 51

Ad Valorem Taxes—Motor Vehicles

IN GENERAL

§ 27-51-1. Short title.

ATTORNEY GENERAL OPINIONS

An annexation is final and effective for all purposes 10 days after issuance of the decree by the chancery court, or 10 days after final determination of an appeal, except that citizens residing in an annexed area may not participate in future municipal elections as electors or as candidates, unless and until pre-clearance by the U.S. Department of Justice is obtained pursuant to Section 5 of the Voting Rights Act. Mallette, March 2, 2007, A.G. Op. #07-00096, 2007 Miss. AG LEXIS 72, modifying Rafferty, November 27, 2006, A.G. Op. #06-00598, 2006 Miss. AG LEXIS 428, as to the effective date of annexation for all purposes other than voting and candidacy.

§ 27-51-41. Exemptions and credits; sale or other disposition of vehicle; penalties.

(1) The exemptions from the provisions of this chapter shall be confined to those persons or property exempted by this chapter or by the provisions of the Constitution of the United States or the State of Mississippi. No exemption as now provided by any other statute shall be valid as against the tax levied by this chapter. Any subsequent exemption from the tax levied hereunder shall be provided by amendment to this section which shall be inserted in the bill at length.

(2) The following shall be exempt from ad valorem taxation:

(a) All motor vehicles, as defined in this chapter, and including motor-propelled farm implements and vehicles, while in the hands of bona fide dealers as merchandise and which are not being operated upon the highways of this state.

(b) All motor vehicles belonging to the federal government or the State of Mississippi or any agencies or instrumentalities thereof.

(c) All motor vehicles owned by any school district in the state.

(d) All motor vehicles owned by any fire protection district incorporated in accordance with Sections 19-5-151 through 19-5-207 or by any fire protection grading district incorporated in accordance with Sections 19-5-215 through 19-5-241.

(e) All motor vehicles owned by units of the Mississippi National Guard.

(f) All motor vehicles which are exempted from highway privilege taxes under Section 27-19-1 et seq.

(g) All motor vehicles operated in this state as common and contract carriers of property, private commercial carriers of property, private carriers of property and buses, all of which have a gross weight in excess of ten thousand (10,000) pounds.

(h) Antique automobiles as defined in Section 27-19-47, and antique pickup trucks as provided for under Section 27-19-47.2, Mississippi Code of 1972.

(i) Street rods as defined in Section 27-19-56.6.

(j) One (1) motor vehicle owned by a disabled American veteran, or by the spouse of a deceased disabled American veteran, who is entitled to purchase a distinctive license plate or tag in accordance with Section 27-19-53, regardless of the license plate or tag issued to the disabled American veteran or the veteran's spouse if the disabled American veteran is deceased.

(k) One (1) motor vehicle owned by the unremarried surviving spouse of a member of the Armed Forces of the United States who, while on active duty, is killed or dies and one (1) motor vehicle owned by the unremarried surviving spouse of a member of a reserve component of the Armed Forces of the United States or of the National Guard who, while on active duty for training, is killed or dies.

(*l*) Motor vehicles owned by recipients of the Congressional Medal of Honor or by former prisoners of war, or by spouses of such deceased persons, in accordance with Section 27-19-54.

(m)(i) One (1) private carrier of passengers, as defined in Section 27-19-3, owned by any religious society, ecclesiastical body or any congregation thereof which is used exclusively for such society and not for profit.

(ii) All motor vehicles owned by any such religious society or any educational institution having a seating capacity greater than seven (7) passengers and used exclusively for transporting passengers for religious or educational purposes and not for profit.

(n) All motor vehicles primarily used as rentals under rental agreements with a term of not more than thirty (30) continuous days each and under the control of persons who are engaged in the business of renting such motor vehicles and who are subject to the tax under Section 27-65-231.

(o) Antique motorcycles as defined in Section 27-19-47.1.

(p) One (1) motor vehicle owned by a recipient of the Purple Heart, and one (1) motor vehicle owned by the unremarried surviving spouse of a recipient of the Purple Heart, as provided in Section 27-19-56.5.

(q) Motor vehicles that are eligible to display an authentic historical license plate as provided for in Section 27-19-56.11.

(r) Motor vehicles that are (i) designed or adapted to be used exclusively in the preparation and loading of chemicals or other material for aerial agricultural application to crops; and (ii) only incidentally used on public roadways in this state.

(s) One (1) motor vehicle owned by the mother of a service member who was killed in action or died in a combat zone after September 11, 2001, while serving in the Armed Forces of the United States as provided for in Section 27-19-56.162.

(t) One (1) motor vehicle owned by the unremarried spouse of a service member who was killed in action or died in a combat zone after September 11, 2001, while serving in the Armed Forces of the United States as provided for in Section 27-19-56.162.

(u) Buses and other motor vehicles that are (a) owned and operated by an entity that has entered into a contract with a school board under Section 37-41-31 for the purpose of transporting students to and from schools and (b) used by the entity for such transportation purposes. This paragraph (u) shall apply to contracts entered into or renewed on or after July 1, 2010.

(v) One (1) motor vehicle owned by a recipient of the Silver Star, and one (1) motor vehicle owned by the unremarried surviving spouse of a recipient of the Silver Star, as provided in Section 27-19-56.284.

(3) Any claim for tax exemption by authority of the above-mentioned code sections or by any other legal authority shall be set out in the application for the road and bridge privilege license, and the specific legal authority for such tax exemption claim shall be cited in said application, and such authority cited shall be shown by the tax collector on the tax receipt as his authority for not collecting such ad valorem taxes, and the tax collector shall carry forward such information in his tax collection reports.

(4) Any motor vehicle driven over the highways of this state to the extent that the owner of such motor vehicle is required to purchase a road and bridge privilege license in this state, yet the legal situs of such motor vehicle is located in another state, shall be exempt from ad valorem taxes authorized by this chapter.

(5) If a taxpayer shall sell, trade or otherwise dispose of a vehicle on which the ad valorem and road and bridge privilege taxes have been paid in any county in the state, he shall remove the license plate from the vehicle. Such license plate must be surrendered to the issuing authority with the corresponding tax receipt, if required, and credit shall be allowed for the taxes paid for the remaining tax year on like privilege or ad valorem taxes due on another vehicle owned by the seller or transferor or by the seller's or transferor's spouse or dependent child. If the seller or transferor does not elect to receive such credit at the time the license plate is surrendered, the issuing authority shall issue a certificate of credit to the seller or transferor, or to the seller's or transferor's spouse or dependent child, or to any other person, business or corporation, at the direction of the seller or transferor, for the remaining unexpired taxes

prorated from the first day of the month following the month in which the license plate is surrendered. The total of such credit may be used by the person or entity to whom the certificate of credit is issued, regardless of the relative amounts attributed to privilege taxes or to county, school or municipal ad valorem taxes. Any credit allowed for taxes due or any certificate of credit issued may be applied to like taxes owed in any county by the person to whom the credit is allowed or by the person possessing the certificate of credit. No credit, however, shall be allowed on the charge made for the license plate. Such license plates surrendered to the tax collector shall be retained by him, and in no event shall such license plate be attached to any vehicle after being surrendered to the tax collector, nor shall any license plate be transferred from one (1) vehicle to any other vehicle.

(6) If the person owning a vehicle subject to taxation under the provisions of this chapter does not operate such vehicle on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of the tag and decals to the date on which he makes application for a current license tag or decals, he shall pay such ad valorem tax for a period of twelve (12) months beginning with the first day of the month in which he applies for a current license tag or decals under Chapter 19, Title 27, Mississippi Code of 1972. The owner shall submit an affidavit with an application attesting to the fact that the vehicle was not operated on the highways of this state from the date of acquisition or, if previously registered, from the end of the anniversary month of the tag and decals to the date on which he makes application for the current license tag or decals.

(7) Any person found violating any of the provisions of this section shall be arrested and tried, and if found guilty shall be fined in an amount double the total amount of taxes involved.

SOURCES: Codes, 1942, § 10007-21; Laws, 1958, ch. 588, § 21; Laws, 1978, ch. 514, § 1; Laws, 1979, ch. 349, § 2; Laws, 1981, 1st Ex Sess, ch. 6; Laws, 1982, ch. 427 § 15; Laws, 1984, ch. 508, § 11; Laws, 1985, ch. 393, § 2; Laws, 1990, ch. 494, § 4; Laws, 1991, ch. 510, § 2; Laws, 1992, ch. 497, § 17; Laws, 1992, ch. 501, § 10; Laws, 1993, ch. 583, § 2; Laws, 1994, ch. 465, § 2; Laws, 1994, ch. 563, § 6; Laws, 1994, ch. 512, § 3; Laws, 1995, ch. 482, § 2; Laws, 1997, ch. 377, § 15; Laws, 1997, ch. 552, § 2; Laws, 1999, ch. 476, § 4; Laws, 2000, ch. 536, § 27; Laws, 2001, ch. 596, § 51; Laws, 2003, ch. 433, § 2; Laws, 2003, ch. 529, § 34; Laws, 2008, ch. 515, § 2; Laws, 2010, ch. 502, § 1; Laws, 2011, ch. 523, § 54; Laws, 2013, ch. 560, § 51, eff from and after July 1, 2013.

Amendment Notes — The 2011 amendment added (2)(v).

The 2013 amendment rewrote (2)(j), which formerly read: "Motor vehicles owned by disabled American veterans, or by spouses of deceased disabled American veterans, in accordance with Section 27-19-53."

§ 27-51-42.3. Exemption for certain active duty members of Mississippi National Guard, armed forces or any armed forces reserve component [Repealed effective September 30, 2015].

(1) The board of supervisors of any county and the governing authorities of any municipality, in the discretion of the board or governing authorities, by order duly adopted and entered upon their respective official minutes, may grant an exemption from motor vehicle ad valorem taxes levied by the county or levied by the municipality, as the case may be, as specified in subsection (2) of this section on one (1) motor vehicle owned by a resident of this state who, as a member of the Mississippi National Guard, as a member of the Armed Forces of the United States or as a member of any reserve component of the Armed Forces of the United States is serving on active duty and receiving special pay for duty subject to hostile fire or imminent danger under 37 USC 310.

(2)(a) A board of supervisors may grant an exemption from all county ad valorem taxes, except ad valorem taxes for school district purposes, in the amount of the lesser of One Hundred Dollars ($100.00) or the amount of ad valorem taxes due on one (1) vehicle for eligible Mississippi active duty service members as set forth in subsection (1) of this section for the license tag registration year or portion of year during which the military service described under subsection (1) of this section is being performed.

(b) The governing authorities of a municipality may grant an exemption from all municipal ad valorem taxes, except ad valorem taxes for school district purposes, in the amount of the lesser of Fifty Dollars ($50.00) or the amount of ad valorem taxes due on one (1) vehicle for eligible Mississippi active duty service members as set forth in subsection (1) of this section for the license tag registration year or portion of year during which the military service described under subsection (1) of this section is being performed.

(3) Upon application to the tax collector for issuance of a motor vehicle license tag and/or decals, any person wishing to be granted the exemption under the provisions of this section shall present to the tax collector a copy of his military orders and a form prescribed by the Department of Revenue establishing his right to such exemption, and the applicant shall be entitled to an exemption from county and/or municipal motor vehicle ad valorem taxes in the amount provided for under subsection (2) of this section if the board of supervisors of the county or the governing authorities of the municipality have authorized such exemption.

(4) The Department of Revenue shall adopt and promulgate such rules and regulations as may be necessary to administer and implement the provisions of this section.

(5) This section shall stand repealed from and after September 30, 2015.

SOURCES: Laws, 2007, ch. 533, § 5; Laws, 2009, ch. 548, § 25; Laws, 2012, ch. 484, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment substituted "and receiving special pay for duty subject to hostile fire or imminent danger under 37 USC 310" for "pursuant to military orders in Iraq or Afghanistan" at the end of (1); substituted "Department of Revenue" for "State Tax Commission" in (3) and (4); and extended repealer provision from "September 30, 2012" to "September 30, 2015" at the end of (5).

Federal Aspects — Special pay to member of uniformed service under hostile fire, see 37 USCS § 310.

MOTOR VEHICLE AD VALOREM TAX CREDIT

§ 27-51-105. Creation of Motor Vehicle Ad Valorem Tax Reduction Fund; composition and administration of fund.

Editor's Note — Laws of 2013, ch. 301, § 1, provides:

"SECTION 1. During fiscal year 2013, the State Fiscal Officer shall transfer the sum of Fifty-two Million Dollars ($52,000,000.00) from the Motor Vehicle Ad Valorem Tax Reduction Fund created in Section 27-51-105 (Fund No. 3769) to the Budget Contingency Fund."

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